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SENATE FILE 85

House Judiciary & Law Enforcement 3-7-75 By COMMITTEE ON JUDICIARY

Passed Senate, Date 2-27-75 Passed House, Date 4/22/76

Vote: Ayes 37 Nays 10 Vote: Ayes 67 Nays 28

Approved June 28, 1976

A BILL FOR

An Act relating to a complete revision of the substantive criminal laws, criminal procedure laws, and sentencing and post-conviction procedure laws of this state; providing rules of criminal procedure; providing classifications of public offenses and their consequent penalties; and providing penalties for violations of laws of the state to accord with the revised classifications.

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

S.F. 85 H.F. _____

CHAPTER 1

DIVISION I

GENERAL PROVISIONS

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as "Iowa Criminal Code". A citation to the Iowa Criminal Code shall identify this Act together with all amendments which may be made so as to reflect the current state of the law.

Sec. 102. NEW SECTION. PUBLIC OFFENSE. An act is a public offense if it is prohibited by a statute which defines it as such or which classifies it as a felony or a misdemeanor An act is not criminal unless a statute declares it to be a public offense, crime, felony or misdemeanor or is punishabl by fine or imprisonment.

Sec. 103. NEW SECTION. CRIMINAL ACT. No person is guilty of a public offense if the act with which he is charged is one over which he has no conscious control.

Sec. 104. NEW SECTION. PRESUMPTION OF INNOCENCE. Every person is presumed innocent until proved guilty. No person shall be convicted of any offense unless his guilt thereof is proved beyond a reasonable doubt.

Sec. 105. NEW SECTION. INSANITY. No person shall be convicted of any crime if, at the time such crime is committed, as a result of mental disease or mental defect, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the law. As used in this section, the terms "mental disease or mental defect" do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

Sec. 106. NEW SECTION. INTOXICANTS OR DRUGS. The fact that a person is under the influence of intoxicants or drugs neither excuses his act nor aggravates his guilt, but may be shown where it is relevant in proving his specific intent or recklessness at the time of his alleged criminal act or in proving any element of the public offense with which he

is charged.

Sec. 107. NEW SECTION. IGNORANCE OR MISTAKE. 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 he is charged. A person's reasonable belief that his conduct does not constitute a crime is not a defense unless one of the following is true:

1. He acts in reliance upon a statute which would have absolved him from guilt and which is later determined to be invalid.

2. He acts in reliance upon an order or ruling of any court of the United States or the supreme court or a district court of this state which would have absolved him from guilt and which is later overruled or reversed.

3. He acts in reliance upon an official interpretation of a statute, regulation or order by the attorney general of this state which would have absolved him from guilt and which is later found to be in error.

Sec. 108. NEW SECTION. 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 nor provides for a specific penalty, such felony shall be a class D felony.

Sec. 109. NEW SECTION. 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.

Sec. 110. NEW SECTION. DEGREES SPECIFIED IN INDICTMENT. An indictment for any public offense for which degrees are

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fixed by law shall specify the degree of the offense.

Sec. 111. NEW SECTION. MERGER OF LESSER INCLUDED OFFENSES. No person shall be convicted of a public offense which is necessarily included in another public offense of which he 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.

Sec. 112. NEW SECTION. 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.

DIVISION II

DEFINITIONS

Section 201. NEW SECTION. POLICY OF UNIFORMITY. Wherever a term, word or phrase is defined in the criminal code, such meanings shall be given to that term wherever it appears in the Code, unless it is clear that the term is being specially defined for a special purpose.

Sec. 202. NEW SECTION. ACT. The term "act" includes a failure to do any act which the law requires one to perform.

Sec. 203. NEW SECTION. ANIMAL. An animal is any nonhuman, animate creature.

Sec. 204. NEW SECTION. 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.

Sec. 205. NEW SECTION. CHILD. For purposes of this Act, unless another age is specified, a child is any person under the age of fourteen years.

Sec. 206. NEW SECTION. CONTROLLED SUBSTANCE. The term "controlled substance" means controlled substance as that term is defined and used in chapter two hundred four (204) of the Code.

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Sec. 207. NEW SECTION. CRIME. The term "crime" is synonymous with "public offense".

Sec. 208. NEW SECTION. DANGEROUS WEAPON. A dangerous weapon is any instrument or device designed primarily for use in inflicting death or injury upon a human being or other living creature, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. 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.

Sec. 209. NEW SECTION. FRAUDULENT PRACTICE. Fraudulent practice 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 incumbering 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 he 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

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token into the money slot of any machine which dispenses goods or services.

Sec. 210. NEW SECTION. 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.

Sec. 211. NEW SECTION. FORCIBLE FELONY. A forcible felony is any felonious homicide, assault, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary.

Sec. 212. NEW SECTION. OCCUPIED STRUCTURE. An occupied structure is any building structure, 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.

Sec. 213. NEW SECTION. PARTICIPATING IN A PUBLIC OFFENSE. A person is participating in a public offense, during 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 he 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 he is successful or unsuccessful in committing the offense.

Sec. 214. NEW SECTION. PROPERTY. Property is anything of value, whether publicly or privately owned. 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".

Sec. 215. NEW SECTION. PROSTITUTE. A prostitute is a person who sells or offers for sale his or her services as

a participant in a sex act.

Sec. 216. NEW SECTION. REASONABLE AND UNREASONABLE. "Reasonable" and "unreasonable" mean reasonable and unreasonable as judged according to the current standards of the community as a whole. Whether an act is reasonable or unreasonable shall be judged in the light of the surrounding circumstances as the actor believes them to be, provided that such belief shall not itself be unreasonable. The fact that an act is prohibited by a statute shall be evidence, to be considered with the other circumstances, from which the court or jury may find that the doing of such act is unreasonable.

Sec. 217. NEW SECTION. RECKLESS. A person is reckless or acts recklessly when he consciously disregards a substantial risk that a specified result will follow, and such disregard constitutes a substantial deviation from the standard of care which a reasonable person would exercise in the situation.

Sec. 218. NEW SECTION. SEX ACT. The term "sex act" or "sexual activity" means any sexual contact between two or more persons, either natural or deviate, by penetration of the penis into the vagina or anus, or by contact between the mouth and genitalia or by use of artifical sexual organs or substitutes therefor in contact with genitalia or anus.

Sec. 219. NEW SECTION. SERIOUS INJURY. "Serious injury" means death, permanent disability or disfigurement, or protracted loss or impairment of the function of any body member or organ, or an injury requiring extended treatment or a prolonged healing period, or a disabling mental illness requiring extended treatment or prolonged care.

Sec. 220. NEW SECTION. STEAL. "Steal" means to take by theft.

DIVISION III

PARTIES TO CRIME

Section 301. NEW SECTION. LIABILITY FOR CONDUCT OF ANOTHER. Any person who causes another person to act illegally, either by soliciting, counseling, coercing or

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encouraging such illegal act, or any person who intentionally aids another to do any illegal act or engage in any illegal activity, shall be guilty to the same extent as if he had done the act or engaged in such activity himself. The guilt of such person is in no way dependent upon the guilt of the person who does the act. In determining the guilt of one who causes or aids another to act, his own intent, recklessness, or negligence shall be the determining factor, and the intent, recklessness, or negligence of the person who did the act shall be of no consequence.

Sec. 302. NEW SECTION. JOINT CRIMINAL CONDUCT. When two or more persons, acting in concert, 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 his guilt will be the same as that of the person so acting, unless the act was one which he did not expressly or tacitly acquiesce in and was not one which he could reasonably expect to be done in the furtherance of the commission of the offense.

Sec. 303. NEW SECTION. ACCESSORY AFTER THE FACT.

1. Any person having knowledge that a felony has been committed, and who does not stand in the relation of husband or wife to the felon, who, with intent to prevent the apprehension of the felon, harbors, aids or conceals the felon, shall be guilty of an aggravated misdemeanor.

2. Any person having knowledge that a misdemeanor has been committed, and who does not stand in the relation of husband or wife to the offender, who, with intent to prevent the apprehension of the offender, harbors, aids or conceals the offender, shall be guilty of a simple misdemeanor.

Sec. 304. NEW SECTION. RESPONSIBILITY OF EMPLOYERS. An employer, or his agent, officer or employee who supervises or directs the work of other employees, is guilty of a public offense committed by an employee acting under his control, supervision or direction in any of the following cases:

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1. He has directed the employee to commit a public offense.

2. He 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. He assigns the employee some duty or duties which he 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.

Sec. 305. NEW SECTION. LIABILITY OF CORPORATIONS, PARTNERSHIPS AND VOLUNTARY ASSOCIATIONS. A public or private corporation, partnership, or other voluntary association shall be guilty of a public offense when any of the following is true:

1. The conduct constituting the offense consists of an omission to discharge a specific duty or an affirmative performance imposed on the accused by law.

2. The conduct constituting the offense is authorized, requested, demanded, performed or recklessly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment and in behalf of the accused.

3. The conduct constituting the offense is committed by an agent of the corporation while acting within the scope of his authority and in behalf of the accused.

"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.

DIVISION IV

JUSTIFICATION

Section 401. NEW SECTION. REASONABLE FORCE. Reasonable force is that force which a reasonable person, in like circum-

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stances, would judge to be necessary to prevent an injury or loss, and no more, except that the use of deadly force against another is reasonable only to resist a like force or threat. The fact that an alternative course of action is available does not make the use of force, including deadly force, unreasonable where the alternative entails a risk to one's life or safety, or the life or safety of a third party, or requires one to abandon or retreat from his dwelling or place of business or employment.

Sec. 402. NEW SECTION. DEADLY FORCE. The term "deadly force" means any of the following:

1. Force used for the purpose of causing serious injury.

2. Force which the actor knows or reasonably should know will create a strong probability that serious injury will result.

3. The discharge of a firearm in the direction of some person with the knowledge of his presence there, even though no intent to inflict serious physical injury can be shown.

4. The discharge of a firearm at a vehicle in which a person is known to be.

Sec. 403. NEW SECTION. DEFENSE OF SELF OR ANOTHER. A person is justified in the use of reasonable force when he reasonably believes that such force is necessary to defend himself or another from any imminent use of unlawful force.

Sec. 404. NEW SECTION. DEFENSE OF PROPERTY. A person is justified in the use of reasonable force to prevent or terminate criminal interference with his possession or other right in property.

Sec. 405. NEW SECTION. 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 property.

Sec. 406. NEW SECTION. 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 himself, 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 himself by his unlawful acts, unless:

a. Such force is grossly disproportionate to the provocation, and is so great that he reasonably believes that he is in imminent danger of death or serious injury or

b. He withdraws from physical contact with the other and indicates clearly to the other that he desires to terminate the conflict but the other continues or resumes the use of force.

Sec. 407. NEW SECTION. RESISTING FORCIBLE FELONY. A person who knows that a forcible felony is being perpetrated is justified in using, against the felon, any force which he reasonably believes to be necessary to prevent the completion of that felony.

Sec. 408. NEW SECTION. ESCAPE FROM PLACE OF CONFINEMENT. A correctional officer or peace officer is justified in using force, including deadly force, which he reasonably believes to be 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 a misdemeanor.

Sec. 409. NEW SECTION. 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 or menace of serious injury, provided that he reasonably believes that such injury is imminent and can be averted only by his doing such act.

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Sec. 410. NEW SECTION. POLICE ACTIVITY. A peace officer or person employed by any police agency who joins in the participation 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, provided that all of the following are true:

1. He is not the instigator of the criminal activity.

2. He does not intentionally injure a nonparticipant in the crime.

3. He acts with the consent of his superiors or the necessity of immediate action precludes his obtaining such consent.

4. His actions are reasonable under the circumstances.

Sec. 411. NEW SECTION. USE OF TRAPS NOT AUTHORIZED. Nothing in this division shall authorize the use of any device which can cause serious physical injury and which is left unattended and unsupervised to be sprung, discharged, or otherwise operated by some force not under the immediate and conscious control of some person.

Sec. 412. NEW SECTION. 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 chapter two (2), sections four hundred ten (410) through four hundred fifteen (415) of this Act.

DIVISION V

SOLICITATION

Section 501. NEW SECTION. SOLICITATION. Any person who commands, entreats, or otherwise attempts to persuade another 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, solicits such other to commit that felony or aggravated misdemeanor. One who solicits another to commit a felony of any class commits a class D felony. One who solicits another to commit an aggravated misdemeanor commits an aggra-

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vated misdemeanor.

Sec. 502. NEW SECTION. 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 him 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 (a) his belief that circumstances exist which increase the possibility of detection or apprehension of the defendant or another or which makes more difficult the consummation of the offense or (b) his decision to postpone the offense until another time or, to substitute another victim or another but similar objective.

DIVISION VI

CONSPIRACY

Section 601. NEW SECTION. CONSPIRACY. A conspiracy is an agreement or voluntary alliance of two or more persons to engage in a course of conduct which will consist, in whole or part, of criminal acts to be committed by one or more of the conspirators. No person shall be convicted of a conspiracy on the testimony of a single witness unless such testimony is corroborated by other evidence of actions by one or more of the conspirators, or other circumstances, evidencing a design to accomplish the purpose of the conspiracy by criminal means.

Sec. 602. NEW SECTION. LOCUS OF CONSPIRACY. A person commits a conspiracy in any county where he is physically present when he makes such agreement or voluntary alliance, and in any county where the person with whom he makes such agreement or voluntary alliance 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 he is or has ever been present in such county; provided, that this section does not permit more than one prosecution for conspiracy based on the same agreement or voluntary alliance.

Sec. 603. NEW SECTION. PENALTIES. A person who commits a conspiracy to commit a felony, or to engage in a course of conduct which shall consist in whole or in part of criminal acts which are felonies, is guilty of a class C felony if any of such is a forcible felony; otherwise he is guilty of a class D felony.

A person who commits a conspiracy to do a criminal act which is a misdemeanor of some class, or to engage in a course of conduct which would consist, in whole or in part, of misdemeanors of some class, commits a misdemeanor of the same class.

Sec. 604. NEW SECTION. 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.

DIVISION VII

HOMICIDE

Section 701. NEW SECTION. CRIMINAL HOMICIDE DEFINED. A criminal homicide is the killing of one person by another (a) when the homicide is committed intentionally or recklessly, and not under circumstances which would justify it or (b) is committed while participating in a forcible felony.

Sec. 702. NEW SECTION. DEFINITION OF TERMS. The following definitions are applicable to this division:

1. "Person" means a human being who has been born and is alive.

2. "Viable fetus" means an unborn child which has so far developed that it would probably live if taken from its mother.

3. "Intentionally committing a homicide" means doing an act, or refraining from performing a duty, with the purpose

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of causing the death of or serious injury to some person. The fact that death is brought about in a manner other than that planned or foreseen by him, or that the person killed was someone other than the person whose death was intended, is not relevant to the question of intention.

4. "Reckless" means a conscious disregard for the safety of others, such disregard constituting substantial deviation from the standard of care which a reasonable person would exercise in the circumstances.

Sec. 703. NEW SECTION. HOMICIDE IN THE FIRST DEGREE. A person commits homicide in the first degree when he commits criminal homicide under the following circumstances:

1. He intentionally commits a homicide, provided that none of the mitigating circumstances as stated in sections seven hundred four (704) and seven hundred five (705) of this division exist.

2. While participating in a felony other than homicide or assault, or while escaping or attempting to escape from lawful custody, he directs violence toward any person which causes the death of such person or another person.

3. He participates in a forcible felony other than homicide or assault and thereby causes the death of some person.

Homicide in the first degree is a class A felony.

Sec. 704. NEW SECTION. HOMICIDE IN THE SECOND DEGREE. A person commits homicide in the second degree when he commits criminal homicide under any of the following circumstances:

1. Intentionally commits a homicide which would otherwise be homicide in the first degree under section seven hundred three (703), subsection one (1) of this division, while under the influence of sudden and violent anger or other extreme mental or emotional disturbance.

2. Commits a homicide which is not homicide in the first degree, by doing a reckless act which he knows will create a reasonable probability that death or serious physical injury will be caused to another, and which shows an unreasonable

indifference to human life and safety.

Homicide in the second degree is a class B felony.

Sec. 705. NEW SECTION. HOMICIDE IN THE THIRD DEGREE. A person commits homicide in the third degree when he commits criminal homicide under the following circumstances:

1. Intentionally commits a criminal homicide in the unreasonable belief that circumstances exist which would justify the homicide.

2. Intentionally commits a criminal homicide because he is coerced by another, not his victim, by threats which cause him to reasonably believe that his act is the only means of preventing death or serious physical injury to himself or another.

Homicide in the third degree is a class C felony.

Sec. 706. NEW SECTION. HOMICIDE IN THE FOURTH DEGREE. A person commits homicide in the fourth degree when he commits a criminal homicide which is not homicide in the first degree, second degree or third degree.

Homicide in the fourth degree is a class D felony.

Sec. 707. NEW SECTION. FETICIDE. A person commits feticide when he intentionally kills a viable fetus. Feticide may be proved as an included offense under an indictment for homicide in the first, second, or third degree, where the evidence does not show beyond a reasonable doubt that the victim of the defendant's willful conduct was a person rather than a viable fetus as defined in section seven hundred two (702) of this division. Nothing in this section shall restrict any person licensed in this state to practice medicine and surgery from doing any act which, in his best clinical judgment is necessary to preserve the life or health of his patient.

Feticide is a class C felony.

Sec. 708. NEW SECTION. ATTEMPT TO COMMIT HOMICIDE. A person commits a class C felony when, with the intent to cause the death of any person and not under circumstances which

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would justify his actions, he does any act by which he expects to set in motion a force or chain of events which will cause or result in the death of such other person.

It is not a defense to an indictment for attempt to commit homicide 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 his expectations were not unreasonable in the light of the facts known to him.

DIVISION VIII

ASSAULT AND BATTERY

Section 801. NEW SECTION. ASSAULT. A person commits an assault when, without justification, he does any of the following:

1. 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.

2. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive.

3. Intentionally points any firearm toward another, or displays in a threatening manner any deadly weapon toward another.

Provided, that where the person doing any of the above 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, the act shall not be an assault.

Sec. 802. NEW SECTION. PENALTIES FOR ASSAULT.

1. A person who commits an assault, as defined in section eight hundred one (801) of this division, with the intent to inflict a serious injury upon another, shall be guilty of an aggravated misdemeanor.

2. Any other assault is a simple misdemeanor.

Sec. 803. NEW SECTION. ASSAULT WHILE PARTICIPATING IN A FELONY. Any person who commits an assault as defined in section eight hundred one (801) of this division while participating in a felony is guilty of a class C felony if he thereby causes serious injury to any person; if no serious injury results, he is guilty of a class D felony.

Sec. 804. NEW SECTION. WILLFUL INJURY. Any person who does an act which is not justified and which is intended to cause and does cause serious injury to another commits a class C felony.

Sec. 805. NEW SECTION. ADMINISTERING HARMFUL SUBSTANCES. Any person who administers to another or causes another to take, without his 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.

Sec. 806. NEW SECTION. RECKLESSLY ENDANGERING LIFE OR SAFETY.

1. Any person who, by his reckless conduct, creates an unreasonable risk of serious injury to another shall be guilty of a serious misdemeanor.

2. Any person who, by his reckless conduct, causes another serious injury short of death, commits an aggravated misdemeanor.

Sec. 807. NEW SECTION. TERRORISM. A person commits a class D felony when he does any of the following with the intent to injure, harass, or provoke fear or anger in another:

1. Shoots or throws a missile or discharges a firearm at or into any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person, and thereby places the occupants thereof in reasonable apprehension of serious injury.

2. Threatens to commit a forcible felony under circumstances raising a reasonable expectation that the threat will

be carried out.

Sec. 808. NEW SECTION. HARASSMENT. A person commits harassment when, with intent to intimidate, annoy or alarm another person, he does any of the following:

1. Taunts or challenges another in a manner likely to provoke violent response.

2. Follows another about from place to place in a manner which is obvious to the person being followed.

3. Communicates with another by telephone, telegraph, or writing without legitimate purpose and in a manner likely to cause him annoyance or harm.

4. Places any simulated explosive or incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by such person.

5. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.

6. 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 same did not occur.

Harassment is a simple misdemeanor.

Sec. 809. NEW SECTION. 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.

Sec. 810. NEW SECTION. SPRING GUNS AND MANTRAPS. 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.

DIVISION IX

SEXUAL ABUSE

Section 901. NEW SECTION. SEXUAL ABUSE. Any sex act between persons who are not man and wife, is sexual abuse

by either of the participants when he performs the act with the other participant in any of the following circumstances:

1. Such act is done by force against the will of the other. In any case where the consent or acquiescence of the other is procured by threats of violence toward any person, the act is done against the will of the person so consenting or acquiescing.

2. Such act is done without the consent of the other, when circumstances preclude active resistance by the other.

3. Such other participant is suffering from a mental defect which precludes effective resistance, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.

4. Such other participant is a child.

Sec. 902. NEW SECTION. SEXUAL ABUSE IN THE FIRST DEGREE. A person commits sexual abuse in the first degree when in the course of committing sexual abuse he causes another serious injury.

Sexual abuse in the first degree is a class A felony.

Sec. 903. NEW SECTION. SEXUAL ABUSE IN THE SECOND DEGREE. A person commits sexual abuse in the second degree when in the course of committing sexual abuse he displays in a threatening manner a deadly weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any other person.

Sexual abuse in the second degree is a class B felony.

Sec. 904. NEW SECTION. SEXUAL ABUSE IN THE THIRD DEGREE. A person commits sexual abuse in the third degree when he commits a sexual abuse upon another in any of the following circumstances:

1. Such act is done by force and against the will of the other.

2. The other participant is suffering from a mental illness or defect which precludes effective resistance, or lacks the mental capacity to know the right and wrong of conduct

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in sexual matters.

3. The other participant is a child.

Sexual abuse in the third degree is a class C felony.

Sec. 905. NEW SECTION. SEXUAL ABUSE IN THE FOURTH DEGREE. A person commits sexual abuse in the fourth degree when he commits any sexual abuse upon another which is not sexual abuse in the first, second or third degrees.

Sexual abuse in the fourth degree is a class D felony.

Sec. 906. NEW SECTION. DETENTION IN BROTHEL. Any person who, by force, intimidation, or false pretense entices another who is not a prostitute to enter a brothel with the intent to cause such other to become an inmate thereof, or who detains another, whether a prostitute or not, in any brothel, against the will of such other, with the intent that such other engage in prostitution therein, commits a class C felony.

Sec. 907. NEW SECTION. LASCIVIOUS ACTS WITH PERSONS UNDER THE AGE OF SIXTEEN YEARS. It is unlawful for any person eighteen years of age or older to perform any of the following acts with any person under the age of sixteen, with or without his or her consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:

1. Fondle or touch the pubes or genitals of a person under the age of sixteen.

2. Permit a person under the age of sixteen to fondle or touch his or her genitals or pubes.

3. Solicit a person under sixteen years of age to engage in sexual contact performed by penetration of the penis into the vagina or anus or by contact between the mouth and genitalia or anus, or by use of artificial sexual organs or substitutes therefor in contact with genitalia or annus.

4. Inflict pain or discomfort upon a person under the age of sixteen or permit a person under the age of sixteen to inflict pain or discomfort on him or her.

Any person who violates a provision of this section shall,

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upon conviction, be guilty of a class D felony.

Sec. 908. NEW SECTION. INDECENT EXPOSURE. A person who exposes his genital or pubes to another not his spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor, if:

1. He does so to arouse or satisfy the sexual desires of either of them; and

2. He knows or reasonably should know that his act is offensive to the viewer.

DIVISION X

KIDNAPPING AND RELATED OFFENSES

Section 1001. NEW SECTION. KIDNAPPING. A person commits kidnapping when he either confines a person or removes a person from one place to another, knowing that he 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 him to a sexual abuse.

4. The intent to secretly confine such person.

5. The intent to interfere with the performance of any government function.

Sec. 1002. NEW SECTION. KIDNAPPING IN THE FIRST DEGREE. 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, or where the purpose of the kidnapping is to hold him for ransom. Kidnapping in the first degree is a class B felony.

Sec. 1003. NEW SECTION. KIDNAPPING IN THE SECOND DEGREE. All other kidnappings are kidnappings in the second degree. Kidnapping in the second degree is a class C felony.

Sec. 1004. NEW SECTION. CHILD STEALING. A person commits

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a class C felony when, knowing that he has no authority to do so, he 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 he is a relative of such child, and his sole purpose is to assume custody of such child.

Sec. 1005. NEW SECTION. VIOLATING CUSTODIAL ORDER. Any relative of a child who, acting in violation of any order of any court which fixes, permanently or temporarily, the custody of such child in another, takes such child and removes him from the state, without the consent of the person having lawful custody, commits a class D felony.

Sec. 1006. NEW SECTION. FALSE IMPRISONMENT. A person commits false imprisonment when, having no reasonable belief that he has any right or authority to do so, he intentionally confines another against his will. A person is confined when his freedom to move about is substantially restricted by force, threat, or deception. False imprisonment is a serious misdemeanor.

DIVISION XI

ROBBERY AND EXTORTION

Section 1101. NEW SECTION. ROBBERY. A person commits a robbery when, having the intent to commit a theft, he does any of the following acts to assist or further the commission of the intended theft, or his escape from the scene thereof with or without the stolen property:

1. Commits an assault upon another.

2. Threatens another with or purposely puts him in fear of immediate serious injury.

3. Threatens to commit immediately any forcible felony.

It is immaterial to the question of guilt or innocence of robbery that property was or was not actually stolen.

Sec. 1102. NEW SECTION. ROBBERY IN THE FIRST DEGREE. A person commits robbery in the first degree when, while

perpetrating a robbery, he purposely inflicts or attempts to inflict serious injury, or displays a dangerous weapon, or is armed with a firearm. Robbery in the first degree is a class B felony.

Sec. 1103. NEW SECTION. 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.

Sec. 1104. NEW SECTION. EXTORTION. A person commits extortion if he does any of the following with the purpose of obtaining for himself or another anything of value, tangible or intangible, including labor or services:

1. Threatens to inflict physical injury on some person, or to commit any public offense.

2. Threatens to accuse another of a public offense.

3. Threatens to expose any person to hatred, contempt, or ridicule.

4. Threatens to harm the credit or business or professional reputation of any person.

5. 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.

6. Threatens to testify or provide information or to withhold testimony or information with respect to another's legal claim or defense.

7. Threatens to wrongfully injure the property of another.

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 he 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 he has a good faith claim.

Extortion is a class D felony.

DIVISION XII

ARSON

Section 1201. NEW SECTION. ARSON. 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.

Sec. 1202. NEW SECTION. ARSON IN THE FIRST DEGREE. Arson is arson in the first degree when the property which the defendant intends to destroy or damage, or which he knowingly endangers, is a dwelling, or a building in which the presence of one or more persons can be reasonably anticipated, or when he knows or should know that his act will create a reasonable probability that death or serious physical injury to another will result. Arson in the first degree is a class B felony.

Sec. 1203. NEW SECTION. ARSON IN THE SECOND DEGREE. Arson which is not arson in the first degree is arson in the second degree when the property which the defendant intends to destroy or damage, or which he knowingly endangers, is a building or a structure, or real property of any kind, or standing crops, or is personal property the value of which exceeds five hundred dollars. Arson in the second degree is a class C felony.

Sec. 1204. NEW SECTION. ARSON IN THE THIRD DEGREE. Arson which is not arson in the first degree or arson in the second degree is arson in the third degree. Arson in the third degree is an aggravated misdemeanor.

Sec. 1205. NEW SECTION. DEFENSE. In any prosecution for arson, if all of the following shall be proved, the accused shall be found not guilty of arson:

1. A person whose ownership or security interest in the property which the defendant intends to destroy or damage, or which he knowingly endangers, equals ninety percent or more of its value, consented to the defendant's acts.

2. No insurer has been exposed fraudulently to any risk

which he has not knowingly contracted for.

3. The act was done in such a way as not to unreasonably endanger the life or property of any other person.

Sec. 1206. NEW SECTION. RECKLESS USE OF FIRE OR EXPLOSIVES. Any person who shall so use fire or any incendiary or explosive device or material as to recklessly endanger the property or safety of another shall be guilty of a serious misdemeanor.

Sec. 1207. NEW SECTION. POSSESSION OF EXPLOSIVE OR INCENDIARY MATERIALS OR DEVICES. Any person who shall possess any incendiary or explosive device or material with the intent to use such device or material to commit any public offense shall be guilty of a class C felony.

Sec. 1208. NEW SECTION. INTENTIONALLY OR RECKLESSLY RISKING A CATASTROPHE. A catastrophe is any occurrence which causes or seriously threatens widespread injury or damage, including, but not limited to: explosion, fire, flood, avalanche, or collapse of buildings; the release of poison gas, radioactive material, or other similarly harmful or destructive substances; the pollution of a water supply by substances capable of causing epidemic, poisoning, or serious injury of persons throughout the community served by it. Any person who intentionally causes a catastrophe or who recklessly creates a risk of catastrophe is guilty of a class C felony.

Sec. 1209. NEW SECTION. 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 will be endangered commits a class D felony.

Sec. 1210. NEW SECTION. THREATS. A person who makes any threat to any other person to place or attempt 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.

DIVISION XIII

BURGLARY

Section 1301. NEW SECTION. BURGLARY. Any person, having the intent to commit a felony or theft therein, who, having no right, license or privilege to do so, enters an occupied structure or area enclosed in such a manner as to provide a place for the keeping of valuable property secure from theft orzcriminal mischief, such occupied structure or place not being open to the public, or who remains therein after it is closed to the public or after his right, license or privilege to be there has expired, or any person having such intent who breaks an occupied structure or other place where anything of value is kept, commits burglary.

Sec. 1302. NEW SECTION. BURGLARY IN THE FIRST DEGREE. A person commits burglary in the first degree if, while perpetratingza burglary, he has in his possession an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts physical injury on any person. Burglary in the first degree is a class B felony.

Sec. 1303. NEW SECTION. BURGLARY IN THE SECOND DEGREE. All burglary which is not burglary in the first degree is burglary in the second degree. Burglary in the second degree is a class C felony.

Sec. 1304. NEW SECTION. 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, shall be guilty of possessing burglar's tools. Possessing burglar's tools is a class C felony.

DIVISION XIV

THEFT

Section 1401. NEW SECTION. THEFT. A person commits theft when he does any of the following:

1. Takes possession or control of the property of an-

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other, or property in the possession of another, with the intent to deprive the other thereof.

2. Misappropriates property which he has in trust, or property of another which he has in his 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 his own use, when the owner of such property is known to him.

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.

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 his purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer. The fact that he is found in possession of property which has been stolen from two or more persons on separate occasions, or that he 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, shall be evidence from which the court or jury may infer that he knew or believed that the property had been stolen.

5. Takes or disposes of property in which someone else has a security interest, with intent to defraud the secured party.

6. Makes any check, draft, or written order on any bank, person or corporation, and obtains property in exchange therefor, if he knows that such check, draft or written order will not be paid when presented. Whenever the drawee of such instrumentzhas refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the

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amount due thereon within ten days of his 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 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.

7. Any act that is declared to be theft by any provision of the Code.

Sec. 1402. NEW SECTION. DEGREES OF THEFT.

1. The theft of property exceeding five thousand dollars in value, or the theft of property from the person of another,

SENATE FILE 85

S-3148

Amend Senate File 85 as follows:

1. Page 28, line 17, by inserting after the word, "battle" the words "or the theft of a motor vehicle of a value exceeding five thousand dollars;".

2. Page 28, line 23, by striking the words",irrespective of value" and inserting in lieu thereof the words "of a value less than five thousand dollars".

S-3148 FILED FEBRUARY 17,1975 lost 2-21-75 BY LLOYD J. ANDERSEN

[illegible] value, is theft in the second degree. Theft in the second degree is a class D felony.

3.z The theft of property exceeding one hundred dollars but not exceeding five hundred dollars in value is theft in the third degree. Theft in the third degree is an aggravated misdemeanor.

4. The theft of property not exceeding one hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a simple misdemeanor.

Sec. 1403. NEW SECTION. VALUE. The value of property is its normal market or exchange value at the time that it is stolen. If money or property is stolen by a series of

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acts from the same person or location, or from different persons by a series of acts which occur in approximately the same location or time period so that the thefts are attributable to a single scheme, plan or conspiracy, such acts shall be considered a single theft and the value shall be the total value of all the property stolen.

Sec. 1404. NEW SECTION. 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 he reasonably believes that he has a right, privilege or license to do so, or if he does in fact have such right, privilege or license.

Sec. 1405. NEW SECTION. INTENT TO DEPRIVE. A person has the intent to deprive another of property, as that term is used in section one thousand four hundred one (1401) of this division, in any case where he takes property from another with the intent to condition the return of such property upon the payment of a reward or other thing of value in return for such property; or when he intends to or does keep the property for such a period of time or intends to or does use it in such a way that the owner is effectively or will be deprived of a substantial portion of the use or enjoyment of such property; provided, that nothing herein shall prevent a finder from claiming any reward which he is permitted by law.

Sec. 1406. NEW SECTION. EVIDENCE OF INTENTION. The fact that any person has concealed unpurchased property of any store or other mercantile establishment, either on the premises or outside the premises of such store, shall be material evidence of intent to deprive the owner thereof, and the findingzof such unpurchased property concealed, upon the person or among the belongings of such person, shall be material evidence of intent to deprive and, if such person conceals, or causes to be concealed, such unpurchased property, upon the person or among the belongings of another, the finding

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of the same shall also be material evidence of intent to deprive on the part of the person concealing such goods.

Sec. 1407. NEW SECTION. LAND. The mere trespass on or occupation of land, contrary to the rights of the owner thereof, is not theft.

Sec. 1408. NEW SECTION. 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 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 a violation of section one thousand four hundred one (1401) of this division.

Sec. 1409. NEW SECTION. FRAUDULENT PRACTICES. A person who does any of the following acts is guilty of a fraudulent practice. A fraudulent practice is an aggravated misdemeanor.

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 any false affidavit or certificate, which is required by law, or which is given in support of any 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 iden-

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tification number, or any owners' identification mark, from any property not his own.

6. For the purpose of soliciting assistance, contributions, or other thing of value, falsely represents himself to be a veteran of the armed forces of the United States, or a member of 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. 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 his own devices.

8. 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.

9. 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.

10. Any act declared to be unlawful by section seven hundred thirteen point twenty-four (713.24), subsection two (2) of the Code.

11. Does any act expressly declared to be a fraudulent practice by any other section of the Code.

DIVISION XV

zFALSE USE OF A FINANCIAL INSTRUMENT

Sec. 1501. NEW SECTION. FINANCIAL INSTRUMENT DEFINED. A financial instrument is any of the following:

1. A check, bill note, draft, bond receipt, or any writ-

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ing which ostensibly evidences an obligation of, or surrender of right or claim by, the person who has purportedly executed it or authorized its execution.

2. Any deed, will or testamentary document, bill of sale, warehouse receipt, bill of lading, or any writing which purports to convey an interest in some property, or to be evidence of or to establish a right in some property.

3. Any letter, credit card, charge plate, or other device which is designed to identify the person tendering such device as one to whom credit may be extended, or as one to whom goods or services may be furnished and charged to the account of another.

4. Any endorsement, acceptance, acknowledgement, codicil, or any writing of any kind upon or ancillary to any financial instrument which does or purports to affect such instrument or the rights or obligations evidenced thereby.

Sec. 1502. NEW SECTION. USE OF FINANCIAL INSTRUMENT DEFINED. One uses a financial instrument when he does any of the following:

1. Makes or executes such instrument or an endorsement thereon, or alters such instrument so as to materially change its nature or the right or obligation which it purports to represent.

2. Tenders or offers such instrument to another in the course of a financial or commercial transaction, with the representation, either express or by implication, that the instrument is what it purports to be and that he is a person who is shown on its face to be one who may rightfully so use such instrument.

3. Possesses such instrument, knowing it to be false or knowingzthat he has no right to use or possess it.

Sec. 1503. NEW SECTION. INTENT AND KNOWLEDGE. The term "intent to obtain fraudulently anything of value" includes the intent to deliver a financial instrument to another, knowing that he intends to use the instrument to obtain

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fraudulently something of value.

One acts with knowledge of facts when he has information which would put a reasonable man on inquiry as to such facts, but acts without making a reasonable inquiry.

Sec. 1504. NEW SECTION. PROOF OF INTENT. The intent to obtain fraudulently anything of value shall not be proved by the mere possession of a falsified financial instrument or a financial instrument which the possessor has no right to use.

Sec. 1505. NEW SECTION. "PERSON" DEFINED. The term "person" as used in this division means a natural person, azfiduciary, a state, a private or public corporation or de facto corporation of any kind, or an officer or agent thereof, and includes fictitious persons or corporations. It is immaterial that any person whom the instrument on its face identifies as having the right to use it, does or does not have such a right, or whether such person does or does not actually exist.

Section 1506. NEW SECTION. FALSE USE OF A FINANCIAL INSTRUMENT. The use of a financial instrument with the intent to obtain fraudulently anything of value by one who knows that the instrument is not what it purports to be, or who knows that he is not the person nor the authorized agent of the person who, as shown on the instrument, has the right to so use the instrument, shall constitute the false use of a financial instrument. False use of a financial instrument is a class C felony.

DIVISION XVI

DAMAGE AND TRESPASS TO PROPERTY

Section 1601. NEW SECTION. CRIMINAL MISCHIEF. Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act.

Sec. 1602. NEW SECTION. MULTIPLE ACTS. Whenever criminal mischief is committed upon more than one item of property

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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.

Sec. 1603. NEW SECTION. CRIMINAL MISCHIEF IN THE FIRST DEGREE. Criminal mischief is criminal mischief in the first degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed is more than five thousand dollars, or if such acts are intended to or do in fact cause a substantial interruption or impairment of 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. Criminal mischief in the first degree is a class C felony.

Sec. 1604. NEW SECTION. CRIMINAL MISCHIEF IN THE SECOND DEGREE. Criminal mischief is criminal mischief in the second degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds five hundred dollars but does not exceed five thousand dollars. Criminal mischief in the second degree is a class D felony.

Sec. 1605. NEW SECTION. CRIMINAL MISCHIEF IN THE THIRD DEGREE. Criminal mischief is criminal mischief in the third degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, destroyed, or concealed exceeds one hundred dollars, but does not exceed five hundred dollars, or if the property is a deed, will, commercial paper or any civil or criminal process or other instrument having legal effect, or if 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. Criminal mischief in the third degree is an aggravated misdemeanor.

Sec. 1606. NEW SECTION. CRIMINAL MISCHIEF IN THE FOURTH DEGREE. All criminal mischief which is not criminal mischief

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in the first degree, second degree or third degree is criminal mischief in the fourth degree. Criminal mischief in the fourth degree is a simple misdemeanor.

Sec. 1607. NEW SECTION. CRIMINAL TRESPASS.

1. The term "property" shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned.

2. The term "trespass" shall mean one or more of the following acts:

a. Entering upon or in property without justification or without the implied or actual permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without justification, or without the implied or actual permission of the owner, lessee, or person in lawful possession.

b. 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.

c. Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

d. Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon orzthereinzanything animate or inanimate, without the implied or actualzpermission of the owner, lessee, or person in lawful possession.

Sec. 1608. NEW SECTION. PENALTIES.

1. Any person who knowingly trespasses upon the property of another commits a simple misdemeanor.

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2. Any person committing a trespass as defined in section one thousand six hundred seven (1607) of this chapter which results in injury to any person or damage in an amount more than one hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

DIVISION XVII

INJURY TO ANIMALS

Section 1701. NEW SECTION. INJURIES TO ANIMALS. Any person who, having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously administer poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal, shall be guilty of an aggravated misdemeanor.

Sec. 1702. NEW SECTION. CRUELTY TO ANIMALS. Any person who shall impound or confine or cause to be impounded or confined, in any place, any domestic animal, or fowl, or any dog or cat, and fail to supply such animal during confinement with a sufficient quantity of food and water, or who shall torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat, or kill any such animal by any means which shall cause unjustified pain, distress or suffering, whether intentionally or negligently, shall be guilty of a simple misdemeanor.

Sec. 1703. NEW SECTION. EXHIBITIONS AND FIGHTS. A person who arranges, promotes, or stages an exhibition at which any animal is tormented, or any fight between animals or between a man and an animal, or who keeps a place where such exhibitions and fights are staged for the entertainment of spectators, commits a serious misdemeanor.

DIVISION XVIII

OFFENSES AGAINST THE GOVERNMENT

Section 1801. NEW SECTION. INSURRECTION. An insurrection is two 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.

Sec. 1802. NEW SECTION. IMPERSONATING A PUBLIC OFFICIAL. Any person who falsely holds himself out 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.

Sec. 1803. NEW SECTION. 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.

Sec. 1804. NEW SECTION. HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. Any person who willfully prevents or attempts to prevent any public officer or employee from performing his duty commits a serious misdemeanor.

Sec. 1805. NEW SECTION. 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.

DIVISION XIX

OBSTRUCTING JUSTICE

Section 1901. NEW SECTION. INTERFERENCE WITH OFFICIAL ACTS. A person who knowingly resists or obstructs anyone known by him to be a peace officer in the performance of any act which is within the scope of the officer's lawful duty or authority, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal

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process or order of any court, commits a simple misdemeanor, provided, that if, in addition to such acts, he displays in a threatening manner or uses a dangerous weapon, he commits an aggravated misdemeanor.

Sec. 1902. NEW SECTION. REFUSING TO ASSIST OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render him 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.

Sec. 1903. NEW SECTION. OBSTRUCTING PROSECUTION. 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 conceal himself, or to fail to appear when subpoenaed.

3. Leaves the state or conceals himself, when he possesses knowledge material to the subject at issue, and has reasonable grounds to believe that he will be called to provide testimony in the trial of another for a public offense.

Sec. 1904. NEW SECTION. ESCAPE FROM CUSTODY.

1. A person convicted of a felony, or charged with the commission of a felony, who intentionally escapes from any detention facility or institution to which he has been committed by reason of such conviction or charge, or from the custody of any public officer or employee to whom he has been entrusted, commits a class D felony.

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2. A person convicted or charged with a misdemeanor, who intentionally escapes from any detention facility or institution to which he has been committed by reason of such conviction or charge, or from the custody of any public officer or employee to whom he has been entrusted, commits a serious misdemeanor.

3. Any person who has been committed to any institution under the control of the division of adult corrections, or to any jail or correctional institution, who knowingly and voluntarily absents himself from any place where he is required to be, commits a serious misdemeanor.

Sec. 1905. NEW SECTION. PERMITTING PRISONER TO ESCAPE. Any jailer or other public officer or employee who voluntarily permits, aids or abets in the escape of any person in custody by reason of a conviction or charge of any crime, commits a class D felony.

Sec. 1906. NEW SECTION. ASSISTING PRISONER TO ESCAPE. Any person who, not being authorized by law, introduces into any detention facility or correctional institution any weapon, explosive or incendiary substance, rope, ladder, or any instrument or device by which he intends to facilitate the escape of any prisoner, or who knowingly causes any such weapon, explosive or incendiary substance, rope, ladder, instrument or device to come into the possession of any prisoner, commits a class D felony.

Sec. 1907. NEW SECTION. FURNISHING INTOXICANTS TO INMATES. Any person not authorized by law who furnishes or knowingly makes available any intoxicating beverage to any inmate at any detention facility, correctional institution or any institution under the management of the department of social services, or who introduces any intoxicating beverage into the premises of any such institution, commits a simple misdemeanor.

Sec. 1908. NEW SECTION. FURNISHING CONTROLLED SUBSTANCE TO INMATE. Any person not authorized by law who furnishes

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or knowingly makes available any controlled substance to any inmate at any detention facility or correctional institution, or at any institution under the management of the department of social services, or who introduces any controlled substance into the premises of any such institution, commits a class D felony.

DIVISION XX

INTERFERENCE WITH JUDICIAL PROCESS

Section 2001. NEW SECTION. COMPOUNDING A FELONY. A person havingzknowledge 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.

Sec. 2002. NEW SECTION. PERJURY. 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 he made the said 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 he retracts the false statement in the course of the proceedings where it was made before the false statement has substantially affected the proceeding.

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Sec. 2003. NEW SECTION. 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 he 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.

Sec. 2004. NEW SECTION. TAMPERING WITH WITNESSES OR JURORS. A person who offers any bribe to any person who he believes will possibly be summoned as a witness or juror in any judicial or arbitration proceeding, or any legislative hearing, or who makes any threats toward such person or who forcibly or fraudulently detains or restrains such person, with the intent to improperly influence such witness or juror with respect to his testimony or decision in such case, or to prevent such person from testifying or serving in such case, or who, in retaliation for anything lawfully done by any witness or juror in any case, harasses such witness or juror, commits an aggravated misdemeanor.

Sec. 2005. NEW SECTION. USE OF FALSE PROCESS OR RECORDS. Any person who represents any document or paper to be any public record or any civil or criminal process, when he knows such representation to be false, commits a simple misdemeanor.

Sec. 2006. NEW SECTION. 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 him to be guilty commits a serious misdemeanor.

Sec. 2007. NEW SECTION. FAILURE TO APPEAR OR TESTIFY. Any person who willfully fails to appear, or who willfully fails to produce any books, records or papers, when he has been required to do so by the order or subpoena of any commission, administrative board, or other agency of the state

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or any subdivision thereof which has been empowered by law to issue such order or subpoena, or any person who, having appeared before any such commission, board or agency, wrongfully fails to testify as to any matter within his knowledge, commits a simple misdemeanor.

DIVISION XXI

OFFICIAL MISCONDUCT

Section 2101. NEW SECTION. 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.

Sec. 2102. zNEW SECTION. 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 him to be in excess of that authorized by law.

2. Fails to report to the proper officer the receipt or expenditure of public monies, together with the proper vouchers therefor, when such is required of him by law.

3. Requests, demands, or receives from another for performing any service or duty which is required of him by law, or which is performed as an incident of his office or employment, any compensation other than the fee, if any, which he is authorized by law to receive for such performance.

4. By color of his office and in excess of the authority conferred on him 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 detri-

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ment of the state or any subdivision thereof.

6. Fails to perform any duty required of him 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.

Sec. 2103. NEW SECTION. MISUSE OF PUBLIC RECORDS AND FILES. A public officer or employee who, by reason of his employment, has access to any public record, or to any file, dossier,zor 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 containedztherein, in exchange for anything of value other than fees authorized by law, commits a serious misdemeanor.

Sec. 2104. NEW SECTION. 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.

DIVISION XXII

BRIBERY AND CORRUPTION

Section 2201. NEW SECTION. BRIBERY. A person who offers, promises or gives anything of value or any benefit to any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or veniremen, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board

of arbitration, with intent to influence the act, vote, opinion, judgment, decision or exercise of discretion of such person with respect to his service in such capacity, or any person serving in such public capacity who shall solicit or knowingly receive any such promise or thing of value given with such intent, commits a class D felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state.

Sec. 2202. NEW SECTION. BRIBERY IN SPORTS. A person who corruptly offers, solicits, gives or receives anything ofzvalue 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 he 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 he 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, use his position or influence to affect the outcome of any such sport, match, or contest or the score thereof.

Sec. 2203. NEW SECTION. BRIBERY OF ELECTOR. A person who offers, promises or gives anything of value or benefit to any elector for the purpose of influencing his vote, in any election authorized by law, or any elector who receives anything of value or any benefit knowing that it was given for such purpose, commits a serious misdemeanor.

Sec. 2204. NEW SECTION. BRIBERY OF ELECTION OFFICIALS. A person who offers, promises or gives anything of value or any benefit to any judge, clerk, or canvasser of any election authorized by law, or to any executive officer attending the same, conditioned on some act done or omitted to be done contrary to his official duty in relation to such election, commits a serious misdemeanor.

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Sec. 2205. NEW SECTION. IMPROPER VOTING. Any person who does any of the following commits a serious misdemeanor:

1. Votes more than once in any election which may be held by virtue of any law of this state.

2. Votes at any election authorized by law, knowing himself not to be qualified.

Sec. 2206. NEW SECTION. MISCONDUCT BY ELECTION OFFICIAL. Any person, being a judge or clerk of election, who knowingly does any of the following commits a serious misdemeanor:

1. Furnishes a voter with a ballot other than the proper ballot to be used at that election.

2. Causes a voter to cast his vote contrary to his intention or wishes.

3. Changes any ballot, or in any way causes any vote to be recorded contrary to the intent of the person casting that vote.

4. Makes or consents to any false entry on the list of voters or poll books.

5. Puts anything, other than his own ballot, into a ballot box, or permits anyone other than a voter casting his ballot to put anything into a ballot box.

6. Takes out of a ballot box, or permits to be so taken out, any ballot deposited therein, except in the manner prescribed by law.

7. Destroys or alters any ballot which has been given to an elector.

8. Permits any person to vote in a manner prohibited by law.

9. Refuses or rejects the vote of any qualified voter.

10. Wrongfully does any act or refuses to act for the purpose of avoiding an election, or of rendering invalid the ballots cast from any precinct or other district.

11. Having been deputized to carry the poll books of any election to the place where they are to be canvassed, willfully or negligently fails to deliver them to such place,

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safe, with seals unbroken, and within the time specified by law.

Sec. 2207. NEW SECTION. DURESS TO PREVENT VOTING. A person who unlawfully and by force, or threats of force, prevents or endeavors to prevent an elector from giving his vote at any public hearing commits an aggravated misdemeanor.

Sec. 2208. NEW SECTION. PROCURING VOTE BY DURESS. A person who procures, or endeavors to procure the vote of an elector for or against any candidate by means of violence, threats of violence or by any means of duress commits an aggravated misdemeanor.

DIVISION XXIII

PUBLIC DISORDER

Section 2301. NEW SECTION. RIOT. A riot is three or more persons assembled together in a violent, tumultuous or threatening 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.

Sec. 2302. NEW SECTION. UNLAWFUL ASSEMBLY. An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent, tumultuous or threatening 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, knowing or having reasonable grounds to believe that it is such, commits a simple misdemeanor.

Sec. 2303. NEW SECTION. FAILURE TO DISPERSE. A peace officer may order the participants in a riot or unlawful assembly and persons in the immediate vicinity of a riot or unlawful assembly to disperse. Any person who, having heard such command, refuses to obey or willingly fails to obey, commits a simple misdemeanor.

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Sec. 2304. NEW SECTION. DISORDERLY CONDUCT. A person commits a simple misdemeanor when he does any of the following:

1. Engages in fighting or violent, tumultuous or threatening 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.

2. Makes loud and raucous noise in the vicinity of any residence or hospital which causes unreasonable distress to the occupants thereof.

3. Directs abusive epithets or personal insults or makes any threatening or obscene gesture which he knows or reasonably should know is likely to provoke a violent reaction by another.

4. Without lawful authority or color of authority, he disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

5. Knowingly or recklessly creates a hazardous or physically offensive condition by exposing another to any substance which is injurious to persons or property or which is nauseous, irritating, or offensive to any of the senses, or possesses any such substance in any school, or any place or business, entertainment or worship, or any place frequented by the public, with the intent to expose others to it.

6. 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.

7. 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 a public offense.

8. Without authority or justification, he obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

DIVISION XXIV

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WEAPONS

Section 2401. NEW SECTION. OFFENSIVE WEAPONS. An offensive weapon is any device or instrumentality of the following types.

1. 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.

2. A shotgun having a barrel or barrels shorter than eighteen inches in length, or a rifle having a barrel or barrels shorter than sixteen inches in length.

3. Any weapon other than a shotgun or muzzle loading rifle 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 one-half inch in diameter, or the ammunition or projectile therefor, but not including antique weapons kept for display.

4. A bomb, grenade, or mine, whether explosive, incendiary, or poison gas; any rocket having a propellant charge of more than four ounces; any missile having an explosive charge of more than one-quarter ounce; or any device similar to any of these.

5. Any part or combination of parts either designed or intended to be used to convert any device into an offensive weapon as described in subsections one (1) through four (4), inclusive, of this section, or to assemble into such an offensive weapon.

Sec. 2402. NEW SECTION. AUTHORITY TO POSSESS. Any of the following is authorized to possess an offensive weapon when his duties or lawful activities require such possession:

1. Any peace officer.

2. Any member of the armed forces of the United States or of the national guard.

3. Any person in the service of the United States.

4. 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.

5. 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.

6. Any correctional officer, serving in an institution under the authority of the division of adult corrections.

Sec. 2403. NEW SECTION. UNAUTHORIZED POSSESSION OF OFFENSIVE WEAPONS. Any person, other than a person authorized herein, who knowingly possesses an offensive weapon commits a class D felony.

Sec. 2404. NEW SECTION. CARRYING WEAPONS. A person who goes armed with a dangerous weapon concealed on or about his person, or who, within the limits of any city, goes armed with a pistol or revolver, or any loaded firearm of any kind, whether concealed or not, or who knowingly carries or transports in a vehicle a pistol or revolver, commits an aggravated misdemeanor, provided that this section shall not apply to any of the following:

1. A person who goes armed with a dangerous weapon in his own dwelling or place of business, or on land owned by him.

2. Any peace officer, when his duties require him to carry such weapons.

3. Any 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 weapons are carried in connection with his duties as such.

4. Any person who for any lawful purpose carries an unloaded pistol or revolver inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person, provided that this exception shall not apply to any person carrying or transporting a pistol or revolver in a common carrier.

5. Any person who for any lawful purpose carries or transports an unloaded pistol or revolver in any vehicle inside

a cargo or luggage compartment where the pistol or revolver will not be readily accessible to any person riding in the vehicle.

6. Any person while he is lawfully engaged in target practice on a range designed for that purpose or while hunting for game in any place designated by local law as a hunting area.

7. Any person who has in his possession and who displays to any peace officer on demand a valid permit to carry weapons which has been issued to him, and whose conduct is within the limits of that permit. No person shall be convicted of a violation of this section if he produces at his trial a permit to carry weapons which was valid at the time of the alleged offense and which would have brought his conduct within this exception if the permit had been produced at the time of the alleged offense.

8. Any correctional officer, when his duties require, serving under the authority of the division of adult corrections.

Sec. 2405. NEW SECTION. PERMITS TO CARRY WEAPONS. A person may be issued a permit to carry weapons when his employment as a security guard, private detective licensed under chapter eighty A (80A) of the Code, bank messenger or other person transporting sums of money, or in police work, reasonably justifies his going armed. Such permits shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder thereof, and shall state the nature of the employment requiring his going armed. A permit so issued shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in such employment, and while going to and from the place of such employment. Any such permit shall expire twelve months after the date when issued. When such employment is terminated, the holder of such permit shall surrender his permit to the issuing officer for cancellation.

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Sec. 2406. NEW SECTION. TEMPORARY PERMITS. Any person who can reasonably justify his going armed may be issued a temporary 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 annual permit, and shall identify the holder thereof, and state the reason for the issuance of the permit, and the limits of the authority granted by such permit. All permits so issued shall be for a definite period as established by the issuing officer, but in no event shall exceed a period of six months.

Sec. 2407. NEW SECTION. TRAINING PROGRAM. The commissioner of public safety shall devise a training program to qualify persons in the safe use of hand guns. The program shall be offered periodically at convenient places about the state. Any person eligible to be issued a permit to carry weapons may enroll in such course. A fee sufficient to cover the cost of the program shall be established by the commissioner, and charged each person attending. Certificates of completion, on a form prescribed and published by the commissioner of public safety, shall be issued to each person who successfully completes the program. No person shall be issued either an annual or temporary permit unless he has received a certificate of completion. No peace officer or correctional officer shall go armed with a pistol or revolver unless he has received a certificate of completion, provided that this requirement shall not apply to persons who are employed in this state as peace officers on the effective date of this Act until six months after the effective date of this Act, or to peace officers of other jurisdictions exercising their legal duties within this state.

Sec. 2408. NEW SECTION. PERSONS ELIGIBLE. No person shall be issued an annual or temporary permit to carry weapons unless:

1. He is eighteen years of age or older.

2. He has never been convicted of a forcible felony.

3. He is not addicted to the use of alcohol or any controlled substance.

4. He has no history of repeated acts of violence.

Sec. 2409. NEW SECTION. APPLICATION. No person shall be issued a permit to carry weapons unless he has completed and signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall state the full name, social security number, residence, and age of the applicant, and shall state whether the applicant has ever been convicted of a felony, whether he is addicted to the use of alcohol or any controlled substance, and whether he has any history of mental illness or repeated acts of violence. Any person who knowingly makes a false statement on such application commits an aggravated misdemeanor.

Sec. 2410. NEW SECTION. ISSUANCE OF PERMIT. Applications for permits or temporary permits to carry weapons shall be made to the sheriff of the county in which the applicant resides. Applications from 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 issuance of the permit shall be by and at the discretion of the sheriff or commissioner, who shall, before issuing the permit, determine that the requirements of sections two thousand four hundred five (2405) through two thousand four hundred nine (2409), inclusive, of this division have been satisfied. The issuing officer shall collect a fee of three dollars for each permit issued. The issuing officer shall notify the commissioner of public safety of the issuance of any permit or temporary permit.

Sec. 2411. NEW SECTION. PERMITS NOT TRANSFERABLE. Permits to carry weapons shall be issued to a specific person only, and may not be transferred from one person to another.

Sec. 2412. NEW SECTION. REPORT AND RECORD OF SALES.

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Any person who sells a revolver or pistol, whether such person is a dealer or otherwise, shall report within twenty-four hours to the county sheriff the sale of such weapon, on forms prescribed and published by the commissioner of public safety, and on the forms shall set forth the time of selling, the age, occupation, place of employment or business, name and residence of such purchaser of such weapon, together with the number, make, and other marks of identification of such weapon, and the sheriff on receipt of such information shall make a permanent record of the same in a book specially kept for that purpose. A copy of this report shall be forwarded by the sheriff to the commissioner of public safety. Any person who fails to make a report as required by this section shall be guilty of a simple misdemeanor.

Sec. 2413. NEW SECTION. GIVING FALSE INFORMATION WHEN PURCHASING WEAPON. A person who gives a false name or presents false identification, or otherwise gives false information to one from whom he seeks to purchase a pistol or revolver, commits an aggravated misdemeanor.

Sec. 2414. NEW SECTION. SALE TO MINORS. A person who sells, loans, gives or makes available a dangerous weapon, or ammunition for a dangerous weapon, to any person below the age of eighteen years commits a simple misdemeanor; provided, that a rifle or shotgun or the ammunition therefor, which lawfully may be used for hunting, and hunting and fishing knives, may be given to such person by his parent or guardian, or by another with the express consent of his parent or guardian; and further provided, that any such person may allow a minor to possess a rifle, shotgun, or pistol, and the ammunition therefor, while on military duty, when such duty requires the possession of such a weapon, or while receiving instruction in the proper use thereof from an adult instructor.

Sec. 2415. NEW SECTION. REVOCATION OF PERMITS. The issuing officer may revoke any permit to carry weapons when he learns that any of the conditions required for the issuance

of that permit as stated in sections two thousand four hundred five (2405) through two thousand four hundred nine (2409), inclusive, of this division have ceased to exist, or when he learns that that permit was improperly issued. When the issuing officer revokes a permit, he shall notify the permit holder of such revocation on a form prescribed and published by the commissioner of public safety, and shall forward a copy of the form to the commissioner of public safety. From the time the permit holder receives notice of revocation, the permit shall cease to have any force or effect. Permit revocations may be reviewed by writ of certiorari.

Sec. 2416. NEW SECTION. RECORDS KEPT BY COMMISSIONER. The commissioner of public safety shall maintain a permanent record of all permits authorized by this division of permit revocations and reports of sales of weapons required by this division.

Sec. 2417. NEW SECTION. PUPCHASE OR SALE OF FIREARMS IN CONTIGUOUS STATES. A resident of Iowa not otherwise precluded by applicable law, may purchase firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories in states contiguous to Iowa. This authorization is enacted in conformance with the Gun Control Act of 1968, 18 U.S.C., section 922 (b) (3) (A). In the event that presently enacted federal restrictions on the purchase of firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories are repealed or set aside by courts of competent jurisdiction, this section shall in no way be interpreted to prohibit or restrict the purchase of firearms, shotguns, rifles, ammunition, reloading components, or firearms accessories by residents of Iowa otherwise competent to purchase the same in contiguous or other states.

A dealer licensed in Iowa may sell or deliver a rifle or shotgun, and a collector licensed in Iowa may sell or deliver a rifle or shotgun if it is a curio or relic, to a resident of an adjacent state, if the purchaser's state of residence

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permits such sale or delivery by law, the sale fully complies with the legal conditions of Iowa and the adjacent state, and the purchaser and licensee have, prior to the sale or delivery for sale of the rifle or shotgun, complied with all the requirements of the federal Gun Control Act of 1968.

Sec. 2418. NEW SECTION. EXISTING PERMITS. Any permit issued by virtue of the authority granted by chapter six hundred ninety-five (695) of the Code prior to the effective date of the repeal of that chapter by this Act shall remain in effect until its normal expiration date.

DIVISION XXV

VICE

Section 2501. NEW SECTION. PROSTITUTION. A person who sells or offers for sale his or her services as a partner in a sex act, or who purchases or offers to purchase such services, commits an aggravated misdemeanor.

Sec. 2502. NEW SECTION. PIMPING. 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 an aggravated misdemeanor.

Sec. 2503. NEW SECTION. PANDERING. A person who persuades or arranges for another to become an inmate of a brothel, or to become a prostitute, such person not having previously engaged in prostitution, or to return to the practice of prostitution after having abandoned it, or who keeps or maintains a brothel or who knowingly takes a share in the income from a brothel, commits a class D felony.

Sec. 2504. NEW SECTION. 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.

Sec. 2505. NEW SECTION. EXHIBITING DEFORMED OR ABNORMAL PERSONS. Any person who shall exhibit, place on exhibition, or cause to be exhibited any deformed, maimed, idiotic or abnormal person or human monstrosity without his consent, and receive any fee or compensation therefor, commits a simple misdemeanor.

DIVISION XXVI

PROTECTION OF THE FAMILY

Section 2601. NEW SECTION. BIGAMY. Any person having a living husband or wife who marries another in this state or who cohabits with another after such marriage outside this state, commits bigamy, provided, that any of the following is a defense to a charge of bigamy:

1. The prior marriage was terminated in accordance with applicable law, or he reasonably believes on reasonably convincing evidence that the prior marriage was so terminated.

2. He believes, on reasonably convincing evidence, that the prior spouse is dead.

3. He has, for three years, had no evidence by which he can reasonably believe that the prior spouse is alive.

Any person who marries another who he knows has another living husband or wife commits bigamy. Bigamy is a serious misdemeanor.

Sec. 2602. NEW SECTION. INCEST. A person who has sexual intercourse with any person whom he knows to be related to him, either legitimately or illegitimately, as an ancestor, descendent, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, commits incest. Incest is a class D felony.

Sec. 2603. NEW SECTION. ABANDONING CHILD. 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

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or physical disability is not able to care for himself, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect himself or who deserts or abandons such person, knowing or having reason to believe that he will be exposed to such hazard or danger, commits a class C felony.

Sec. 2604. NEW SECTION. NONSUPPORT. A person, who being able to do so, fails or refuses to provide support for his child or ward under the age of eighteen years commits nonsupport; provided that no person shall be held to have violated this section who fails to support any child or ward under the age of eighteen who has left the home of the parent or other person having legal custody of him without the consent of that parent or person having legal custody of him. 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. Nonsupport is a class D felony.

Sec. 2605. NEW SECTION. WANTON NEGLECT. A person who is the parent or adoptive parent of any child under the age of eighteen years commits wanton neglect when he does any of the following:

1. He knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of such child.

2. He fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a "delinquent child", a "dependent child", or a "neglected child" as those terms are defined in section two hundred thirty-two point two (232.2) of the Code.

3. He abandons such child to fend for himself, knowing that the child is unable to do so.

Wanton neglect is a serious misdemeanor.

DIVISION XXVII

HEALTH, SAFETY AND WELFARE

Section 2701. NEW SECTION. 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 he 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.

Sec. 2702. NEW SECTION. FIREWORKS. The term "fireworks" shall mean and include 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 shall include blank cartridges, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance. The term "fireworks" shall not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, nor flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, nor toy snakes which contain no mercury. Except as hereinafter provided, any person, firm, copartnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any fireworks, commits a serious misdemeanor; provided the council of any city or town or the trustees of any township may, upon application in writing, grant a permit for the display of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by such city, town, or township authorities when such fireworks display will be handled by a competent operator but no such permit shall be required for such display of fireworks at the Iowa state fairgrounds by the Iowa state board nor of incorporated county fairs nor of district fairs receiving state aid. Sales of fireworks for such display

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may be made for that purpose only; provided further, that nothing in this section shall be construed to prohibit any resident, dealer, manufacturer, or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same 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; and provided further that nothing in this section shall apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

Sec. 2703. NEW SECTION. ABANDONED OR UNATTENDED REFRIGERATORS. Any person who abandons or otherwise leaves unattended any refrigerator, ice box, 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 his possession or control, abandoned or unattended and so accessible to children, commits a simple misdemeanor.

Sec. 2704. NEW SECTION. 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.

Sec. 2705. NEW SECTION. OBSTRUCTING EMERGENCY PHONE CALLS. An emergency call is any call to a fire department or police department for aid, or a call for medical aid or ambulance service, when human life or property is in jeopardy and the prompt summoning of aid is essential. Any person who fails to relinquish any telephone or telephone line which he is using when informed that such phone or line is needed for an emergency call commits a simple misdemeanor.

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Sec. 2706. NEW SECTION. 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.

Sec. 2707. NEW SECTION. PUBLICATION REQUIRED. Every telephone company doing business in this state shall print a copy of sections two thousand seven hundred five (2705) and two thousand seven hundred six (2706) of this division 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.

Sec. 2708. NEW SECTION. ELECTRONIC AND MECHANICAL EAVESDROPPING. 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; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.

DIVISION XXVIII

OBSCENITY

Section 2801. NEW SECTION. DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Obscene material" is any material depicting or describing the genitals, sex acts, masturbation, excretory functions or sado-masochistic abuse which the average person, taking the material as a whole and applying contemporary

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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.

2. "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 statute or other figure, or any recording, transcription or mechnical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

3. "Disseminate" means to transfer possession, with or without consideration.

4. "Knowingly" means being aware of the character of the matter.

5. "Sado-masochistic 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.

6. "Minor" means any person under the age of eighteen.

7. "Sex act" means any sexual contact, actual or simulated, between two or more persons, either natural or deviate, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth and genitalia or anus, or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

Sec. 2802. NEW SECTION. DISSEMINATION AND EXHIBITION OF OBSCENE MATERIAL TO MINORS. Any person, 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 of a serious misdemeanor.

Sec. 2803. NEW SECTION. ADMITTING MINORS TO PREMISES WHERE

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OBSCENE MATERIAL IS EXHIBITED. Any person who knowingly sells, gives, delivers, or provides a minor with a pass or admits a minor to premises where obscene material is exhibited is guilty of a public offense and shall upon conviction be guilty of a serious misdemeanor.

Sec. 2804. NEW SECTION. 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 his county to minors he 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 division.

Sec. 2805. NEW SECTION. EXEMPTIONS FOR PUBLIC LIBRARIES AND EDUCATIONAL INSTITUTIONS. Nothing in this division 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 division prohibits the attendance of minors at an exhibition or display of art works or the use of any materials in any public library.

Sec. 2806. NEW SECTION. SUSPENSION OF LICENSES OR PERMITS. Any person who knowingly permits a violation of section two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter to occur on premises under his control shall have all permits and licenses issued to him 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 two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter.

Sec. 2807. NEW SECTION. EVIDENCE CONSIDERED. At a trial

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for violation of section two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter 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.

Sec. 2808. NEW SECTION. 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 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.

Sec. 2809 NEW SECTION. UNIFORM APPLICATION. In order to provide for the uniform application of the provisions of this division 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 division, 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, whether enacted before or after this Act, shall be or become void, unenforceable and of no effect upon the effective date of this Act.

CHAPTER 2

DIVISION I

CRIMINAL PROCEDURE SCOPE AND DEFINITIONS

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the "Iowa code of criminal procedure".

Sec. 102. NEW SECTION. SCOPE. The provisions of this code shall govern procedure in the courts of Iowa in all criminal proceedings except where a different procedure is specifically provided by law.

Sec. 103. NEW SECTION. GENERAL PURPOSES. The provisions of this code 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.

Sec. 104. NEW SECTION. GENERAL DEFINITIONS. For the purposes of this Act, unless the context otherwise requires:

1. "Attorney general" includes an authorized assistant of the attorney general.

2. "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.

3. "County attorney" includes an authorized assistant county attorney.

4. "Court" means a place where justice is administered a magistrate and includes such magistrate while acting

in his judicial capacity.

5. "Criminal proceeding" is a proceeding in which a person is accused of a public offense.

6. "Magistrate" means all judges of the district court, including district associate judges and judicial magistrates throughout the state.

7. "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 policemen of cities and towns.

c. Special agents appointed by the commissioner of public safety and members of the department of public safety, except members of the clerical force, as defined in section ninety-seven A point one (97A.1), subsection two (2) of the Code.

d. Probation and parole agents acting pursuant to sections two hundred forty-seven point twenty (247.20) and chapter three (3), section five hundred two (502) of this Act.

e. Probation officers acting pursuant to section two hundred thirty-one point ten (231.10) of the Code.

f. Employees of the director of the department of general services pursuant to section nineteen B point twelve (19B.12), subsection two (2) of the Code.

g. Special security officers employed by board of regent's institutions as set forth in section two hundred sixty-two point thirteen (262.13) of the Code.

h. Conservation officers as authorized by section eighty B point three (80B.3) of the Code.

i. Such persons as may be otherwise so designated by law.

8. "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 he is charged. In the case of prosecution for a municipal ordinance violation, "prosecuting attorney" means a city attorney or an assistant city attorney.

9. 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.

10. "Indigent" is a person with insufficient resources as defined in section three hundred thirty-six A point four (336A.4) of the Code.

DIVISION II

LIMITATION OF CRIMINAL ACTIONS

Section 201. NEW SECTION. CRIMINAL HOMICIDE. A prosecution for criminal homicide in the first or second degree may be commenced at any time after the death of the victim.

Sec. 202. NEW SECTION. EIGHTEEN-MONTH LIMITATION. An indictment or information for sexual abuse or its attempt shall be found within eighteen months after its commission.

Sec. 203. NEW SECTION. THREE-YEAR LIMITATION. In all cases, except those enumerated in sections two hundred one (201) and two hundred two (202) of this division, an indictment or information for a felony or aggravated misdemeanor shall be found within three years after its commission.

Sec. 204. NEW SECTION. ONE-YEAR LIMITATION. A prosecution for a simple or serious misdemeanor or violation of a municipal or county rule or ordinance shall be commenced within one year after its commission.

Sec. 205. NEW SECTION. PERIODS EXCLUDED FROM LIMITATION.

1. When a person leaves the state with the intention of avoiding prosecution, the indictment or prosecution may be found or commenced within the time herein limited after his coming into the state, and no period during which the party charged was not publicly resident within the state is a part

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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.

Sec. 206. NEW SECTION. CONTINUING CRIMES. When an offense is based on a series of acts committed at different times, the period of limitation prescribed by this division shall commence upon the commission of the last of such acts.

Sec. 207. NEW SECTION. TIME OF FINDING INDICTMENT AND INFORMATION. Within the meaning of this division:

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.

Sec. 208. NEW SECTION. 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 same 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 division.

DIVISION III

JURISDICTION OF PUBLIC OFFENSES AND PLACE OF TRIAL

Section 301. NEW SECTION. STATE CRIMINAL JURISDICTION.

1. A person is subject to prosecution in this state for an offense which he commits within or outside this state, by his own conduct or that of another for which he 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. 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.

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 homicide victim is found within the state, the death 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.

Sec. 302. NEW SECTION. PLACE OF TRIAL--GENERAL. Criminal actions shall be tried in the county in which the crime is committed, except as otherwise provided by law. All objections to place of trial are waived by a defendent unless he objects thereto prior to trial.

Sec. 303. NEW SECTION. 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 [illegible] 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 the offense is a traffic offense, section seven hundred fifty-three point twenty (753.20) of the Code shall be applicable.

Sec. 304. NEW SECTION. 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.

DIVISION IV

COMMENCEMENT OF ACTIONS; ARREST; DISPOSITION OF PRISONERS

Section 401. NEW SECTION. ARREST BY WARRANT--COMPLAINT AND CITATION DEFINED. 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 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 issue a warrant for the arrest of such person. A complaint is a statement in writing, under oath or affirmation, made before a magistrate, of the commission of a public offense, and accusing someone thereof. Such complaint may be substantially in the form provided in the Iowa rules of criminal procedure.

Whenever the complaint charges a misdemeanor the magistrate may in his discretion 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 therein.

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The citation may be served in the same manner as an original notice in a civil action.

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, he shall be in contempt of court, and be guilty of a simple misdemeanor. The magistrate may issue a warrant of arrest for the offense originally charged, and institute proceedings in contempt as provided by chapter six hundred sixty-five (665) of the Code.

If after issuing a citation the magistrate becomes satisfied that the person to whom such citation has been directed will not appear, he may at once issue a warrant of arrest without waiting for the date mentioned in the citation.

Sec. 402. NEW SECTION. 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, city, or town where issued, and be signed by the magistrate with his name of office.

Sec. 403. NEW SECTION. 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)."

Sec. 404. NEW SECTION. MANNER OF EXECUTING WARRANT. The warrant may be delivered to any peace officer for execution, and served in any county in the state.

Sec. 405. NEW SECTION. 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 his submission to custody.

Sec. 406. NEW SECTION. PERSONS AUTHORIZED TO MAKE AN ARREST. An arrest of a defendant pursuant to a warrant may be made by a peace officer; in other cases, arrest of defendants may be made by a peace officer or by a private person.

Sec. 407. NEW SECTION. ARRESTS BY PEACE OFFICERS. A peace officer may make an arrest in obedience to a warrant delivered to him; and without a warrant:

1. For a public offense committed or attempted in his presence.

2. Where a public offense has in fact been committed, and he has reasonable ground for believing that the person to be arrested has committed it.

3. Where he has reasonable ground for believing that an indictable public offense has been committed and has reasonable ground for believing that the person to be arrested has committed it.

4. Where he 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 him that a warrant has been issued and is being held for the arrest of the person to be arrested on a designated charge.

Sec. 408. NEW SECTION. ARREST OF MATERIAL WITNESS. 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.

Sec. 409. NEW SECTION. ARRESTS BY PRIVATE PERSONS. A private person may make an arrest:

1. For a public offense committed or attempted in his presence.

2. When a felony has been committed, and he has reason-

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able ground for believing that the person to be arrested has committed it.

Sec. 410. NEW SECTION. USE OF FORCE BY PEACE OFFICER MAKING AN ARREST. A peace officer, while making a lawful arrest, is justified in the use of any force which he reasonably believes to be necessary to effect the arrest or to defend himself or another from bodily harm while making the arrest. However, he is justified in using deadly force only when he reasonably believes that such force is necessary to prevent death or serious injury to himself or another, or when he reasonably believes that the person being arrested has committed a felony, and reasonably believes that either of the following is true:

1.z The felony was a forcible felony.

2. The person being arrested is armed, or that there is a substantial risk that the person to be arrested will cause death or serious physical injury if his apprehension is delayed.

A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.

Sec. 411. NEW SECTION. USE OF FORCE IN ARREST BY PRIVATE PERSON. A private person who makes or assists another private person in making a lawful arrest is justified in using any force which he reasonably believes to be necessary in making that arrest, provided that he is justified in the use of deadly force intended only to arrest a person whom he has discovered to be participating in a forcible felony, only when he reasonably believes that such force is necessary to prevent serious injury to himself or another.

A private person who is summoned or directed by a peace officer to assist in making an arrest may use whatever force the officer himself could use under the circumstances, except that, if the arrest is unlawful, the private person

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assisting the officer shall be justified as if the arrest were a lawful arrest, unless he knows that the arrest is unlawful.

Sec. 412. NEW SECTION. USE OF FORCE IN RESISTING ARREST. A person is not authorized to use force to resist an arrest, either of himself or another which he 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 he believes that the arrest is unlawful or the arrest is in fact unlawful.

Sec. 413. NEW SECTION. USE OF FORCE IN PREVENTING AN ESCAPE FROM ARRESTING OFFICER. A peace officer or other person who has an arrested person in his custody is justified in the use of such force to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting such person.

Sec. 414. NEW SECTION. MANNER OF MAKING ARREST. The person making the arrest must inform the person to be arrested of the intention to arrest him, the reason for arrest, of his authority to make it, and that he is a peace officer, if such be the case, and require him to submit to his 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; if acting under the authority of a warrant, the law enforcement officer need not have the warrant in his possession at the time of the arrest, but upon request he shall show the warrant to the person being arrested as soon as possible. If the officer does not have the warrant in his possession at the time of arrest, he shall inform the person being arrested of the fact that a warrant has been issued.

Sec. 415. NEW SECTION. BREAKING AND ENTERING PREMISES.

1. DEMAND TO ENTER. If a law enforcement officer has reasonable cause to believe that a person whom he is authorized to arrest is present on any private premises, he may

upon identifying himself as such, demand that he 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.

2. ENTRY WITHOUT PRIOR DEMAND. The demand to be admitted required by subsection one (1) of this section need not be made if the officer is arresting pursuant to an arrest warrant, has reasonable cause to believe that a person whom he seeks to arrest for a public offense is present on the premises, and a magistrate has inserted a direction therein, either at the time of issuance or by amendment of the warrant prior to execution, that the officer executing it need not make a demand for admission. The magistrate may so direct only upon proof under oath that if such demand were made, there is probable cause to believe one of the following:

a. That the person to be arrested would escape.

b. That the officer would be subject to harm in effecting the arrest.

Sec. 416. NEW SECTION. TIME OF ARREST. An arrest may be made on any day and at any time of the day or night.

Sec. 417. NEW SECTION. SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as he reasonably finds necessary to aid him in making the arrest.

Sec. 418. NEW SECTION. TAKING WEAPONS. He who makes an arrest may take from the person arrested all weapons which he may have about his person to be disposed of according to law.

Sec. 419. NEW SECTION. COMMUNICATIONS BY ARRESTED PERSONS. Any peace officer or other person having custody of any person arrested or restrained of his 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 his or her family or an attorney of his or her

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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.

Sec. 420. NEW SECTION. INITIAL APPEARANCE BEFORE MAGISTRATE--ARREST BY WARRANT.

1. Any person arrested in obedience to a warrant shall, without unnecessary delay, be taken before the nearest and most accessible magistrate to the place where the arrest occurred and the officer must at the same time deliver to the magistrate the warrant, with his return thereon endorsed and subscribed by him with his official title.

2. Where the offense be bailable, the magistrate shall fix bail giving due consideration to the bail endorsed on the warrant or other conditions stipulated on the warrant for his appearance in the court which issued the warrant; if such person is not released on bail, the magistrate must redeliver to the officer the warrant and the officer shall retain custody of the arrested person until his removal to appear before the magistrate who issued the warrant.

3. If the magistrate who issued the warrant is absent or unable to act, the arrested person shall be taken to the nearest and most accessible magistrate in the judicial district where the offense occurred, and all documents on which the warrant was issued must be sent to such magistrate, or if they cannot be procured, the informant and his witnesses must be subpoenaed to make new affidavits.

Sec. 421. NEW SECTION. INITIAL APPEARANCE BEFORE

MAGISTRATE--ARREST WITHOUT WARRANT. 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, 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 his affirmation, and such magistrate shall proceed as follows:

1. If the magistrate believes from such complaint that the offense charged is triable in his court, he shall proceed with the case.

2. If the magistrate believes from such complaint that the offense charged is triable in another court, he 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 his appearance at the other court.

Sec. 422. NEW SECTION. 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 him before a magistrate, or deliver him 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.

Sec. 423. NEW SECTION. BAIL--DISCHARGE. Any magistrate or clerk who receives bail as provided for in sections four hundred twenty (420), subsection two (2), and four hundred twenty-one (421), subsection two (2), of this division 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.

Sec. 424. NEW SECTION. OFFICER'S RETURN. In all cases, the peace officer, when he takes a person committed to him under an order as provided in this division before a magistrate or clerk of the district court, either for the purpose of giving bail, if bail be taken, or for trial or preliminary examination, must make his return on such order, and sign such return with his name of office, and deliver the same to the magistrate or clerk.

Sec. 425. NEW SECTION. 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.

Sec. 426. NEW SECTION. DEPARTMENT OF PUBLIC SAFETY PRISONERS. The sheriff of any county shall accept for custody in the county jail of his respective county any person handed over to him for safekeeping and lodging by any member of the department of public safety.

Sec. 427. NEW SECTION. LEGISLATORS' IMMUNITY FROM ARREST. Senators and representatives in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

Sec. 428. NEW SECTION. DETENTION AND SEARCH IN SHOPLIFTING.

1. Persons concealing property as set forth in chapter one (1), section one thousand four hundred six (1406) of this Act, may be detained and searched by a peace officer, merchant, or a 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 two (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 been first obtained.

3. The detention or search under this section by a peace officer, merchant, or merchant's employee shall not render such peace officer, merchant, or merchant's employee liable, in a criminal or civil action, for false arrest or false imprisonment provided the peace officer, merchant, or merchant's employee had reasonable grounds to believe the person detained or searched committed or was attempting to conceal property as set forth in chapter one (1), section one thousand four hundred six (1406) of this Act.

DIVISION V

POLICE CITATIONS

Section 501. NEW SECTION. CONDITIONS. Whenever it would be lawful for a peace officer to arrest a person without a warrant, he may issue a citation instead of making the arrest and taking the person before a magistrate.

Sec. 502. NEW SECTION. 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.

Sec. 503. NEW SECTION. PROCEDURE. Before he is released, the cited person shall sign the citation 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.

Sec. 504. NEW SECTION. 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.

Sec. 505. NEW SECTION. FAILURE TO APPEAR. Any person who willfully fails to appear in court as specified by the citation shall be guilty of a simple misdemeanor.

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DIVISION VI

UNIFORM FRESH PURSUIT LAW

Section 601. NEW SECTION. 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 him on the ground that he 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 he is believed to have committed a felony in this state.

Sec. 602. NEW SECTION. PROCEDURE FOLLOWING ARREST. If an arrest is made in this state by an officer of another state in accordance with the provisions of section six hundred one (601) of this division, he shall without unnecessary delay take the person arrested before a magistrate of 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 he 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 him to bail for such purpose. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

Sec. 603. NEW SECTION. CONSTRUCTION OF STATUTE. Section six hundred one (601) of this division shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

Sec. 604. NEW SECTION. OFFICERS FROM DISTRICT OF COLUMBIA. For the purpose of this division the word "state" shall include the District of Columbia.

Sec. 605. NEW SECTION. DEFINITIONS OF TERMS. The term

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"fresh pursuit" as used in this division 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.

Sec. 606. NEW SECTION. NAME OF ACT. This division may be cited as the "uniform act on fresh pursuit."

DIVISION VII

PROCEEDINGS AGAINST CORPORATIONS

Section 701. NEW SECTION. 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 him, requiring the corporation to appear before him, at a specified time and place, to answer the charge, the time to be not less than twelve days after the issuing of the summons.

Sec. 702. NEW SECTION. 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 (or town) of _____, the _____ day of _____, _____.

G. H. Magistrate"

(or as the case may be.)

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Sec. 703. NEW SECTION. 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.

Sec. 704. NEW SECTION. 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 him, 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.

Sec. 705. NEW SECTION. 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 him with his 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 twelve 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 _____,

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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 (or town) 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.

Sec. 706. NEW SECTION. 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.

Sec. 707. NEW SECTION. 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.

DIVISION VIII

SEARCH AND SEIZURE

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Section 801. NEW SECTION. DEFINITIONS. For purposes of this division, unless the context otherwise requires:

1. "Search warrant" means an order in writing, in the name of the state, signed by a magistrate, and directed to a peace officer or other authorized person commanding him to search a person, premises, or thing.

2. "Affidavit" means a written declaration or statement of fact made under oath, or legally sufficient affirmation, before any person authorized to administer oaths within or without the state.

3. "Administrative inspector" means any person authorized by law to inspect for violations of or compliance with law.

Sec. 802. NEW SECTION. 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 crime or public offense or concealed to prevent a crime or offense from being discovered.

4. For any other property relevant and material as evidence in a criminal prosecution.

5. For administrative inspections pursuant to law.

Sec. 803. NEW SECTION. APPLICATION FOR SEARCH WARRANTS. Any person may make application for the issuance of a search warrant by submitting before any magistrate a written application, supported by his oath or affirmation, and setting forth therein facts, information, and circumstances tending to establish sufficient grounds for granting the application, and probable cause for believing that such grounds exist. The application shall describe the person, place, or thing to be searched with such specificity so as to enable an independent reasonable man with reasonable effort to ascertain and identify such person, place, or thing. The application

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shall describe the property to be seized. If the magistrate thereafter issues the search warrant, he shall endorse on the application the name and address of all persons upon whose sworn testimony he relied to issue such warrant together with the abstract of each witness' testimony, or his affidavit. However, if the grounds for issuance is supplied by an informant, the magistrate shall identify only the peace officer to whom the information was given. The magistrate may in his discretion require that any witness upon whom the applicant relies for information to appear personally and be examined concerning such information.

Sec. 804. NEW SECTION. ISSUANCE. Upon a finding of probable cause for grounds to issue a search warrant, the magistrate shall issue a warrant, signed by him with his name of office, directed to any authorized person, commanding him forthwith to search the named person, place, or thing within the state for the property specified, and bring any property seized before him.

Sec. 805. NEW SECTION. EXECUTION. A search warrant may be executed by any peace officer. In the case of administrative inspections authorized by law, an administrative inspector shall be authorized to secure and execute a search warrant as provided in division nine (IX) of this chapter. 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, he being present and acting. The warrant shall 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.

Sec. 806. NEW SECTION. FORCIBLE EXECUTION. The officer may break into any structure or vehicle where reasonably

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necessary to execute the warrant if, after notice of this authority and purpose his admittance has not been authorized. The officer may use reasonable force to enter a structure or vehicle to execute a search warrant without notice of his authority and purpose in the case of vacated or abandoned structures or vehicles.

The officer executing a search warrant may break restraints when necessary for his own liberation or to effect the release of a person who has entered a place to aid him.

Sec. 807. NEW SECTION. 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 either of the following reasons:

1. To protect himself from attack.

2. To prevent the disposal or concealment of any property subject to seizure described in the warrant.

Sec. 808. NEW SECTION. 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 his return, a complete inventory of the property taken, and state under oath that it is accurate to the best of his knowledge. The magistrate 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.

Sec. 809. NEW SECTION. EVIDENCE. Property seized in the execution of a search warrant shall be safely kept, subject

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to thezorders of any court having jurisdiction to try any offense involved therewith, so long as reasonably necessary to enable its production at trials. Thereafter it shall be disposed of as provided by law.

Sec. 810. NEW SECTION. 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 his authority, or exercises it with unnecessary severity, is guilty of a serious misdemeanor.

DIVISION IX

ADMINISTRATIVE SEARCHES

Section 901. NEW SECTION. WARRANTS TO INSPECT. If the owner or occupant of any property refuses admittance thereto, or if prior to such refusal an administrative inspector demonstrates the necessity for a warrant, any authorized administrative inspector as defined in division eight (VIII) of this chapter may make application under oath or affirmation, before a magistrate for the issuance of a search warrant. Upon proper application, the magistrate may issue such a warrant.

Sec. 902. NEW SECTION. APPLICATION. In the application the inspector shall state that by a search of certain premises, areas, or things designated in the application he may obtain evidence tending to reveal the existence of violations of public health, safety, or welfare requirements imposed by statutes, rules or ordinances established by the state or a political subdivision thereof. The application shall describe the area, premises, or thing to be searched, give the date of the last inspection if known, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection

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has no purpose other than to carry out the purpose of the statute, ordinance, or regulation pursuant to which inspection is made. If an item of property is sought by the inspector, it shall be identified in the application.

Sec. 903. NEW SECTION. WARRANT AND SEARCH. In making inspections and searches pursuant to the authority of this division, administrative inspectors must execute the warrant:

1. Within ten days after its date.

2. In a reasonable manner, and any property seized shall be treated in accordance with the provisions of division eight (VIII) of this chapter.

3. Subject to any restrictions imposed by the statute, ordinance or regulation pursuant to which inspection is made.

Sec. 904. NEW SECTION. OTHER LAWS. Administrative inspection warrants authorized under section two hundred four point five hundred two (204.502) of the Code, shall be issued and executed pursuant to the provisions of that chapter.

DIVISION X

LINEUPS AND NONTESTIMONIAL IDENTIFICATION

Sec. 1001. NEW SECTION. DEFINITION. As used in this division, the term "nontestimonial identification" includes 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.

Section 1002. NEW SECTION. AUTHORITY TO ISSUE ORDER. A nontestimonial identification order authorized by this division may be issued only by a district court judge upon written application of a prosecuting attorney.

Sec. 1003. NEW SECTION. TIME OF APPLICATION. Applications for a nontestimonial identification order under this division may be made prior to the arrest of a suspect. The procedural provisions of this division shall not limit the conduct of lineups or other nontestimonial procedures after arrest.

Sec. 1004. NEW SECTION. BASIS FOR ORDER. An order shall

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issue only on an affidavit or affidavits sworn to before a district court judge and establishing each of the following grounds for the order:

1. That there is probable cause to believe that an offense has been committed.

2. That there are reasonable grounds, not amounting to probable cause to arrest, to suspect that the person named or described in the affidavit committed the offense.

3. That the results of specific nontestimonial identification procedures will be of material aid in determining whether the person named in the affidavit committed the offense.

Sec. 1005. NEW SECTION. ISSUANCE. Upon a showing that the grounds specified in section one thousand three (1003) of this division exists, the judge shall issue an order requiring the person named in the affidavit to appear at a designated time and place for nontestimonial identification. If it appears from the affidavit that a person named or described in the affidavit may, upon service of the order to appear, either flee or alter or destroy the nontestimonial evidence, the judge may direct a peace officer to bring the person before the judge. The judge shall then direct that the designated nontestimonial identification procedures be conducted expeditiously. After such identification procedures have been completed, the person shall be released or charged with an offense.

Sec. 1006. NEW SECTION. MODIFICATION OF ORDER. At the request of the person named in the affidavit, the judge shall modify the order with respect to time and place of appearance whenever it appears reasonable under the circumstances to do so.

Sec. 1007. NEW SECTION. FAILURE TO APPEAR. Any person who fails without adequate excuse to obey an order to appear served upon him pursuant to this division may be held in contempt of the court which issued the order.

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Sec. 1008. NEW SECTION. SERVICE OF ORDER. An order to appear pursuant to this division shall be served by a law enforcement officer. The order shall be served upon the person named or described in the affidavit by delivery of a copy to him personally. Service may be had at any place within the jurisdiction.

Sec. 1009. NEW SECTION. CONTENTS OF ORDER. An order to appear shall be signed by the judge and shall state:

1. That the presence of the person named in the affidavit is required for the purpose of permitting nontestimonial identification procedures in order to aid in the investigation of the offense 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 such procedures will require.

4. The grounds to suspect that the person named in the affidavit committed the offense 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 his 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 his place of residence.

7. That the person, if he fails to appear, 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.

Sec. 1010. NEW SECTION. IMPLEMENTATION OF ORDER. Nontestimonial identification procedures may be conducted by any law enforcement officer or other person designated

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by the judge. The judge may require medical supervision for any test ordered pursuant to this division when he deems such supervision necessary. No person who appears under an order of appearance issued pursuant to this division shall be detained longer than is reasonably necessary to conduct the specified nontestimonial identification procedures unless he is arrested for an offense.

Sec. 1011. NEW SECTION. RETURN. Within thirty days after the nontestimonial identification procedure, a return shall be made to the judge who issued the order setting forth a report of the nontestimonial identification procedures and an analysis thereof from the person named in the affidavit. If, at the time of such return, probable cause does not exist to believe that such person has committed the offense named in the affidavit or any other offense, the judge shall issue an order directing that the products of the nontestimonial identification procedures, and all copies thereof, be destroyed unless otherwise requested by the person.

Sec. 1012. NEW SECTION. 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.

DIVISION XI

BAIL

Section 1101. NEW SECTION. BAILABLE AND NONBAILABLE OFFENSES. 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 a defendant convicted of a class A felony shall not be admitted to bail

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while appealing such conviction or seeking post-conviction relief.

Sec. 1102. NEW SECTION. RELEASE OF DEFENDANTS--CONDITIONS OF BAIL BOND.

1. CONDITIONS FOR RELEASE OF DEFENDANT. All bailable defendants shall be ordered released from custody pending judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of his discretion, that such a release will not reasonably assure the appearance of the defendant as required. 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 which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

a. Place the defendant in the custody of a designated person or organization agreeing to supervise him.

b. Place restrictions on the travel, association or place of abode of the defendant during the period of release.

c. Require the execution of an appearance bond in a specified amount and the deposit with the clerk of court in cash or other qualified security of a sum not to exceed ten percent of the amount of the bond, such deposit to be returned to the defendant upon the performance of the appearances as required in section one thousand one hundred seven (1107) of this division.

d. Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu thereof, provided that, except as provided in section one thousand one hundred one (1101) of this division, bail initially given shall remain valid until final disposition of the offense. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase thereof

and the defendant must provide the additional undertaking, written or cash, to secure his release.

e. Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the defendant return to custody after specified hours.

2. DETERMINATION OF CONDITIONS. In determining which conditions of release will reasonably assure appearance, 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 his residence in the community, his record of convictions, and his record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

3. STATEMENT TO ALL DEFENDANTS. When a defendant appears before a magistrate pursuant to rule two (2) or rule three (3), rules of criminal procedure, he shall be informed of the defendant's right to have said conditions of release reviewed. If the defendant indicates he 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 he 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.

4. STATEMENT OF CONDITIONS WHEN DEFENDANT IS RELEASED.

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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 his release and shall advise him that a warrant for his arrest will be issued immediately upon such violation.

5. AMENDMENT OF RELEASE CONDITIONS. A magistrate ordering the release of the defendant on any conditions specified in this section may at any time amend his 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 his inability to meet such conditions, the provisions of subsection three (3) of this section shall apply.

6. APPEAL FROM CONDITIONS OF RELEASE.

a. A defendant who is detained, or whose release on a condition requiring him to return to custody after specified hours is continued, after review of his application pursuant to subsections three (3) or five (5) of this section, by a magistrate, other than a district court judge or district associate judge having original jurisdiction of the offense with which he is charged, may make application to a district court 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 to the supreme court. The appeal shall be determined summarily without briefs on the record 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 supreme 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 one (1) of this section.

7. 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 his release, if he 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, he shall be guilty of a serious misdemeanor. If the person was released for appearance as a material witness, he shall be guilty of a simple misdemeanor. In addition, nothing herein shall limit the power of the court to punish for contempt.

Sec. 1103. NEW SECTION. RELEASE OF MATERIAL WITNESSES. If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence by subpoena, a magistrate shall impose conditions of release pursuant to section one thousand one hundred two (1102) of this division. The undertakings of witnesses in criminal cases may be forfeited and enforced in like manner as similar undertakings by defendants. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice. Where the

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deposition of a witness is to be taken, release of the witness may be delayed for a reasonable period of time not exceeding seven days until the deposition can be secured pursuant to the Iowa rules of criminal procedure. Material witnesses who are detained shall be confined separately from persons accused or convicted of criminal offenses.

Sec. 1104. NEW SECTION. QUALIFICATION AND EXAMINATION OF SURETY.

1. Insurance companies doing business in this state under the provisions of section five hundred fifteen point forty-eight (515.48), subsection two (2) of the Code, may act as surety. Resident property owners within the state, 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 suretyzpossesses such qualifications.

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.

Sec. 1105. NEW SECTION. 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 timezof 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.

Sec. 1106. NEW SECTION. BAIL ON APPEAL. After conviction, upon appeal to the supreme court, the defendant must be admitted to bail, if it be from the judgment imposing a fine, upon the undertaking of bail that he will, in all respects, abide the orders and the judgment of the supreme court upon appeal; if from a judgment of imprisonment, except as provided in section one thousand one hundred one (1101) or division twelve (XII) of this chapter upon the undertaking of bail that the defendant will surrender himself in execution of the judgment and direction of the supreme court, and in all respects abide the orders and judgment of the supreme 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 he is imprisoned, or by the supreme 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 one thousand one hundred two (1102) of this division.

Sec. 1107. NEW SECTION. FORFEITURE OF BAIL.

1. A defendant released pursuant to this division shall appear at arraignment, trial, judgment, or such other proceedings where his appearance is required. If the defendant fails to appear at the time and place when his personal appearance is lawfully required, or to surrender himself in execution of the judgment, the court must direct an entry of such failure to be made of record, and the undertaking of his bail, or the money deposited, is thereupon forfeited. As a part of such entry, except as provided in rule forty-four (44),

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rules of criminal procedure, the court shall direct the sheriff of the county to give ten days' notice in writing to the defendant and his sureties to appear and show cause, if any, why judgment should not be entered for the amount of such bail. zIf such appearance is not made, judgment shall be entered by the court. If such 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, he shall hold the same as funds of his office for a period of sixty days from the date of judgment.

3. The court may, upon application, set aside such judgment if, within sixty days from the date thereof, the defendant shall voluntarily surrender himself to the sheriff of the county, or his bondsmen shall, at their own expense, deliver him to the custody of the sheriff. Such judgment shall not be set aside, however, unless a condition precedent thereto, the defendant and his sureties shall have paid all costs and expenses incurred in connection therewith.

Sec. 1108. NEW SECTION. 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 he has given bail or deposited money in lieu thereof, or otherwise is released pursuant to this division, 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

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may be arrested pursuant to such order, upon a certified copy thereof, in any county of the state.

3. If the order recite, 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.

Sec. 1109. NEW SECTION. SURRENDER OF DEFENDANT.

1. At any time before the forfeiture of his undertaking, the bail may surrender the defendant, or the defendant may surrender himself, 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.

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 bondsmen.

3. For the purpose of surrendering the defendant, the bail, at any time before finally charged and at any place within the state, may arrest the defendant, or, by a written authority endorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

DIVISION XII

CONFINEMENT OF MENTALLY ILL OR DANGEROUS PERSONS

Subdivision I

CRIMES OF VIOLENCE

Section 1201. NEW SECTION. CUSTODY PRIOR TO TRIAL.

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Pursuant to this subdivision the district court may order pretrial detention of specified persons who might be otherwise eligible for release under division eleven (XI) of this chapter. Such detention applies only to persons charged with forcible felonies when one of the following conditions exists:

1. The state certifies by motion that based on such person's pattern of behavior consisting of his past and present conduct, and on the other factors set out in section one thousand one hundred two (1102), subsection two (2) of this chapter, there is no condition or combination of conditions which will reasonably assure the safety of the community.

2. A person charged with one or more forcible felonies for purposes of this division referred to as crimes of violence, has been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged; or the crime of violence was allegedly committed while the person was, with respect to another crime of violence, on bail or other release or on probation, parole, or mandatory release pending completion of a sentence.

3. A person charged with a crime of violence threatens or injures, or attempts to threaten or injure, any prospective witness or juror.

Sec. 1202. NEW SECTION. RIGHT TO HEARING. No person described in section one thousand two hundred one (1201) of this division shall be ordered detained unless the district court judge holds a pretrial detention hearing in accordance with the procedures described in section one thousand two hundred three (1203) of this division. No person shall be confined under the provisions of this subdivision unless the district court judge finds the following:

1. That there is clear and convincing evidence that the person is a person described in section one thousand two hundred one (1201), subsections one (1), two (2) and three (3) of this division.

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2. On the basis of evidence presented to the district court, there is a substantial probability that the person committed the crime of violence with which he is charged.

3. Based on the person's pattern of behavior consisting of his past and present conduct, and on the other factors set out in section one thousand one hundred two (1102), subsection two (2) of this chapter, there is no condition or combination of conditions of release which will reasonably assure the safety of other persons or the community.

When the district court issues an order of detention, it must be accompanied by written findings of fact and the reasons for its entry.

Sec. 1203. NEW SECTION. PROCEDURAL REQUIREMENTS. The following procedures shall apply to pretrial detention hearings held pursuant to this subdivision:

1. The prosecuting attorney may initiate a pretrial detention hearing by ex parte written motion. Upon such motion, the district court may issue a warrant for the arrest of the person.

2. The pretrial detention hearing shall be held immediately upon the person being brought before the district court for such hearing unless the person or the prosecuting attorney moves for a continuance. A continuance granted on motion of the person shall not exceed three calendar days. A continuance on motion of the prosecuting attorney shall be granted only upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

3. The person shall be entitled to representation by counsel, including appointed counsel for indigent persons, and shall be entitled to the right of cross-examination and to present information, to testify, and to present witnesses on own behalf.

4. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the formal rules of evidence.

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5. Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, subject only to the following exceptions: Such testimony shall be admissible in proceedings under sections one thousand one hundred two (1102), subsection seven (7) and one thousand one hundred nine (1109) of this chapter, and in perjury proceedings.

6. Unless the defendant otherwise requests in writing, the district court shall conduct the hearing as a private hearing, and any order entered shall remain confidential as to the public generally until the conclusion of the trial.

7. Appeals from orders of detention may be taken in the manner provided under section one thousand one hundred two (1102), subsection six (6) of this chapter.

Sec. 1204. NEW SECTION. PERIOD OF DETENTION. The trial of a person detained under this subdivision shall, consistent with the sound administration of justice, be expedited for trial and his case shall be given priority. In the event that the trial of a person confined under this subdivision does not begin within forty days after the start of such person's detention, such person is no longer subject to detention under this subdivision. In such case the district court judge shall order the release of the person in accordance with, and subject to the limitations imposed by, section one thousand one hundred two (1102) of this chapter. The district court judge may also order the release of persons originally confined under this section whenever the district court judge finds that a subsequent event has eliminated the basis for such detention.

Sec. 1205. NEW SECTION. TRANSFER OF PAPERS WHEN CASE BEGINS BEFORE A JUDICIAL MAGISTRATE OR DISTRICT ASSOCIATE JUDGE. When the prosecutor intends to move for an order of detention under this division, any magistrate other than a district court judge before whom a complaint was made against the defendant shall certify and transmit a copy of the

complaint to a district court judge upon the request of the prosecuting attorney, together with a transcript of any proceedings had on the complaint before the magistrate.

Subdivision II

DETENTION AFTER CONVICTION

Section 1206. NEW SECTION. WHEN DETENTION ALLOWED. When a person is awaiting sentence after conviction of a felony or following sentence of confinement is pursuing an appeal in such case, and the person would be otherwise eligible for release under division eleven (XI) of this chapter, but it appears by clear and convincing evidence that if released he is likely to pose a danger to another person or to the property of others, such person may be detained under the authority of this division.

Sec. 1207. NEW SECTION. HEARING. The provisions of section one thousand two hundred three (1203) of this division relating to procedural requirements shall attend hearings held pursuant to this subdivision, and if the trial court issues an order of detention, it shall be accompanied by written findings of fact and the reasons for its entry. For purposes of such proceedings, the trial court is not divested of jurisdiction by the filing of a notice of appeal. Appeals from orders of detention may be taken in the manner provided under section one thousand one hundred two (1102), subsection six (6) of this chapter.

Subdivision III

MENTAL INCOMPETENCY OF ACCUSED TO STAND TRIAL

Section 1208. NEW SECTION. MENTAL INCOMPETENCY OF ACCUSED. If at any stage of a criminal proceeding it reasonably appears that the defendant is suffering from a mental disorder which prevents him from assisting effectively in his defense, further proceedings must be suspended and a hearing had upon that question.

Sec. 1209. NEW SECTION. CESSATION OF CRIMINAL PROSECUTION. If, upon hearing conducted by the court, the accused is found

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to be incapacitated in the manner described in section one thousand two hundred eight (1208) of this division, no further proceedings shall be taken under the complaint or indictment until his capacity is restored, and, if his release will endanger the public peace or safety, the court must order him committed to the custody of the department of social services.

Sec. 1210. NEW SECTION. EFFECT OF RESTORATION OF MENTAL CAPACITY. If the accused is committed to the department of social services, after the expiration of a period not to exceed six months, the court shall upon hearing review the confinement and determine whether there is a substantial probability the prisoner will regain capacity within a reasonable time. If not, the state shall be directed to institute civil commitment proceedings. When it thereafter appears that he can effectively assist in his defense, that department shall give notice to the sheriff and county attorney of the proper county of such fact, and the sheriff, without delay, must receive and hold him in custody until he is brought to trial or judgment, as the case may be, or is legally discharged, the expense for conveying and returning him, or any other, to be paid in the first instance by the county from which he is sent, but such county may recover the same from another county or municipal body bound to provide for or maintain him elsewhere, and the sheriff shall be allowed for his services the same fees as are allowed for conveying convicts to the penitentiary.

DIVISION XIII

IOWA RULES OF CRIMINAL PROCEDURE

Section 1301. NEW SECTION. PROVISIONS RELATING TO HEARING AND TRIAL IN INDICTABLE CASES.

Rule 1. SCOPE OF RULES AND DEFINITIONS.

1. SCOPE. The rules in this division provide procedures for indictable criminal cases.

2. DEFINITIONS.

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a. "Committing magistrate" means judicial magistrates, district court associate judges, and district court judges.

b. "Judicial officer" means justices of the supreme court, district court judges, and committing magistrates.

c. "Unnecessary delay" is any unexcused delay longer than twenty-four hours, and consists of a shorter period whenever a magistrate is accessible and available.

Rule 2. PROCEEDINGS BEFORE THE MAGISTRATE.

1. INITIAL APPEARANCE OF DEFENDANT. An officer making an arrest with or without a warrant shall take the arrested person without unnecessary delay before a committing magistrate as provided by law. When a person arrested without a warrant is brought before a magistrate, a complaint shall be filed forthwith. If the defendant received a citation or was arrested without a warrant, the magistrate shall, prior to other proceedings in the case, make an initial, preliminary determination from the complaint, or from an affidavit or affidavits filed with the complaint or from an oral statement under oath or affirmation from the arresting officer or other person, whether there is probable cause to believe that an offense has been committed and that the defendant has committed it. His decision in this regard shall be entered in the magistrate's record of the case.

2. STATEMENT BY THE MAGISTRATE. The magistrate shall inform a defendant who appears before him after arrest, complaint, summons, or citation of the complaint against him, of his right to retain counsel, of his right to request the assignment of counsel if he is unable to obtain counsel, of the general circumstances under which he may secure pretrial release, and of his right to review of any conditions imposed on his release. The magistrate shall also inform the defendant that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the defendant reasonable time and opportunity to consult counsel.

3. COUNSEL. From a list approved by the district court judge, the magistrate shall have authority to appoint counsel to represent the defendant in the event the defendant requests representation by counsel and is entitled to same. Counsel will be assigned to assist the defendant only upon a showing as required in section three hundred thirty-six A point four (336A.4) of the Code. Counsel so appointed may make application in the district court for compensation for such services.

4. PRELIMINARY HEARING. The defendant shall not be called upon to plead and the magistrate shall proceed as follows:

a. PRELIMINARY HEARING. The magistrate shall inform the defendant that he is entitled to a preliminary hearing unless he is indicted by a grand jury or a true information is filed against him or unless he waives the preliminary hearing. If the defendant waives preliminary hearing, the magistrate shall order him held to answer in further proceedings. If the defendant does not waive the preliminary hearing, the magistrate shall schedule a preliminary hearing. Such hearing shall be held within a reasonable time but in any event not later than ten days following the initial appearance if the defendant is in custody and no later than twenty days if he is not in custody. With the consent of the defendant and upon a showing of good cause, the time limits specified in this subdivision may be extended by the magistrate. In the absence of such consent by the defendant, time limits may be extended only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice.

b. PROBABLE CAUSE FINDING. If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the defendant committed it, the magistrate shall order him held to answer in further proceedings. The finding of probable cause shall be based upon substantial evidence, which may be hearsay in whole or

in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished. The defendant may cross-examine witnesses against him and may introduce evidence in his own behalf.

c. CONSTITUTIONAL OBJECTIONS. Rules excluding evidence on the ground that it was acquired by unlawful means are not applicable. Motions to suppress must be made to the trial court as provided in rule eleven (11).

d. PRIVATE HEARING. The magistrate must also, upon request of the defendant, exclude from the hearing all persons except the magistrate, his clerk, the peace officer who has custody of the defendant, a court reporter, the attorney or attorneys representing the state, the defendant and his counsel.

e. DISCHARGE OF DEFENDANT. If from the evidence it appears that there is no probable cause to believe that an offense has been committed or that the defendant committed it, the magistrate shall dismiss the complaint and discharge the defendant. The discharge of the defendant shall not preclude the government from instituting a subsequent prosecution for the same offense.

f. TRANSMISSION OF MAGISTRATE'S RECORD ENTRIES. After concluding the proceedings the magistrate shall transmit forthwith to the clerk of the district court all papers and recordings in the proceeding.

g. PRELIMINARY HEARING TESTIMONY PRESERVED BY STENOGRAPHER OR TAPE RECORDER: PRODUCTION PRIOR TO TRIAL. Proceedings at the preliminary hearing shall be taken down by a court reporter or recording equipment and shall be made available on the following basis:

(1) On timely application to a magistrate, for good cause shown, and subject to the availability of facilities, the attorney for a defendant in a criminal case may be given the opportunity to have the recorded tape of the hearing on preliminary examination replayed for his information in

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connection with any further hearing or in connection with his preparation for trial.

(2) On application of a defendant addressed to a district court judge, showing that the record of preliminary hearing, in whole or in part, should be made available to his counsel, an order may issue that the clerk make available a copy of the record, or of a portion thereof, to defense counsel. Such order shall provide for prepayment of costs of such record by the defendant unless the defendant makes a sufficient affidavit that he is unable to pay or to give security therefor, in which case the expense shall be paid by the county. The prosecution may move also that a copy of the record, in whole or in part, be made available to it, for good cause shown, and an order may be entered granting such motion in whole or in part, on appropriate terms, except that the government need not prepay costs nor furnish security therefor.

(3) The copy of the record of such proceedings furnished pursuant to subparagraph two (2) of this paragraph may consist of a tape of the recorded proceedings or a stenographic transcript of the proceedings.

If the record is ordered, the court shall specify in its order to the magistrate an appropriate method of making the record available. If, in any circumstance, a typewritten transcript is furnished counsel, a copy thereof shall be filed with the clerk of court.

Rule 3.z THE GRAND JURY.

1. DRAWING GRAND JURORS. At such times as prescribed by the chief judge of the district court in the public interest, the names of the twelve persons constituting the panel of the grand jury shall be placed by the clerk in a container, and after thoroughly mixing the same, in open court the clerk shall draw therefrom seven names, and the persons so drawn shall constitute the grand jury. Should any of the persons so drawn be excused by the court or fail to attend

on the day designated for their appearance, the clerk shall draw additional names until the seven grand jurors are secured.

If the panel is insufficient to provide and maintain a grand jury of seven members, the panel shall be refilled from the jury box by the clerk of the court under direction of the court; additional grand jurors shall be selected until a grand jury of seven grand jurors is secured, and they shall be summoned in the manner as those originally drawn.

2. CHALLENGE TO GRAND JURY.

a. CHALLENGE TO ARRAY. A defendant held to answer for a public offense may, before the grand jury is sworn, challenge the panel or the grand jury, only for the reason that it was not composed or drawn as prescribed by law. If the challenge be sustained, the court shall thereupon proceed to take remedial action to compose a proper grand jury panel or grand jury.

b. CHALLENGE TO INDIVIDUAL JURORS. A challenge to an individual grand juror may be made before the grand jury is sworn as follows:

(1) By the state or the defendant, because the grand juror does not possess the qualifications required by law.

(2) By the state only because:

(a) He is related either by affinity or consanguinity nearer than in the fifth degree, or stands in the relation of agent, clerk, servant, or employee, to any person held to answer for a public offense, whose case may come before the grand jury.

(b) He is bail for anyone held to answer for a public offense, whose case may come before the grand jury.

(c) He is defendant in a prosecution similar to any prosecution to be examined by the grand jury.

(d) He is, or within one year preceding has been, engaged or interested in carrying on any business, calling, or employment the carrying on of which is a violation of law, and for which the juror may be indicted by the grand jury.

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(3) By the defendant only because:

(a) He is a prosecutor upon a charge against the defendant.

(b) He has formed or expressed such an opinion as to the guilt or innocence of the defendant as would prevent him from rendering a true verdict upon the evidence submitted.

c. DECISION BY COURT. Challenges to the panel or to an individual grand juror shall be decided by the court.

d. MOTION TO DISMISS. A motion to dismiss the indictment may be based on challenges to the array or to an individual juror, if not previously determined under this rule.

3. DISCHARGING AND SUMMONING JURORS.

a. DISCHARGE. A grand jury, on the completion of its business, shall be discharged by the court. The grand jury shall serve until discharged by the court, and the regular term of service by a grand juror should not exceed one calendar year. However, when an investigation which has been undertaken by the grand jury is incomplete, the court may by order extend the eligibility of a grand juror beyond one year, to the completion of the investigation.

b. SUMMONING JURORS. Upon order of the court the clerk shall issue his precept or precepts to the sheriff, commanding him to summon the grand juror or jurors. Upon a failure of a grand juror to obey such summons without sufficient cause, he may be punished for contempt.

c. EXCUSING JURORS. If the court excuses a juror, the court may impanel another person in place of the juror excused. If the grand jury has been reduced to a less number than seven by reason of challenges to individual jurors being allowed, or from any other cause, the additional jurors required to fill the panel shall be summoned, first, from such of the twelve jurors originally summoned which were not drawn on the grand jury as first impaneled, and if they are exhausted the additional number required shall be drawn from the grand jury list. If a challenge to the array is allowed, a new grand jury shall be impaneled to inquire into the charge

against the defendant in whose behalf the challenge to the array has been allowed, and they shall be summoned in the manner prescribed in this rule.

4. OATHS AND PROCEDURE.

a. FOREMAN. From the persons impaneled as grand jurors the court shall appoint a foreman, or when the foreman already appointed is discharged, excused, or from any cause becomes unable to act before the grand jury is finally discharged, an acting foreman may be appointed.

The foreman of the grand jury may administer the oath to all witnesses produced and examined before it.

b. CLERKS AND BAILIFFS. The court may appoint as clerk of the grand jury a competent person who is not a member thereof. In addition thereto the court may, if it deems it necessary, appoint assistant clerks of the grand jury. If no such appointments are made by the court, the grand jury shall appoint as its clerk one of its own number who is not its foreman. In like manner the court may appoint bailiffs for the grand jury to serve with the powers of a peace officer while so acting.

c. OATHS ADMINISTERED TO GRAND JURY, CLERK, AND BAILIFF. The following oath shall be administered to the grand jury: "Do each of you, as the grand jury, solemnly swear or affirm that you will diligently inquire and true presentment make of all public offenses against the people of this state, triable on indictment within this county, of which you have or can obtain legal evidence; you shall present no person throughzmalice, hatred, or ill will, nor leave any unpresented throughzfear, favor, or affection, or for any reward, or the promise or hope thereof, but in all your presentments that you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding?"

Any clerk, assistant clerk, or bailiff appointed by the court must be given the following oath: "Do you solemnly

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swear that you will faithfully and impartially perform the duties of your office, that you will not reveal to anyone its proceedings or the testimony given before it and will abstain from expressing any opinion upon any question before it, to or in the presence or hearing of the grand jury or any member thereof?"

d. SECRECY OF PROCEEDINGS. Every member of the grand jury, and its clerks and bailiffs, shall keep secret the proceedings of that body and the testimony given before it, except as provided in rule thirteen (13). No such person shall disclose the fact that an indictment has been found except when necessary for the issuance and execution of a warrant or summons, and such duty of nondisclosure shall continue until the indicted person has been arrested. The county attorney shall be allowed to appear before the grand jury on his own request for the purpose of giving information or for the purpose of examining witnesses, and the grand jury may at all reasonable times ask the advice of the county attorney or the court. However, neither the county attorney nor any other officer or person except the grand jury may be present when the grand jury is voting upon the finding of an indictment.

e. SECURING WITNESSES AND RECORDS. The clerk of the court must, when required by the foreman of the grand jury or county attorney, issue subpoenas for witnesses to appear before the grand jury. The grand jury is entitled to free access at all reasonable times to county institutions and places of confinement, and to the examination without charge of all public records within the county.

f. MINUTES. The clerk of the grand jury shall take and preserve minutes of the proceedings and of the evidence given before it, except the votes of its individual members on finding an indictment.

g. EVIDENCE FOR DEFENDANT. The grand jury is not bound to hear evidence for the defendant, but may do so, and must

weigh all the evidence submitted to it, and when it has reason to believe that other evidence within its reach will explain away the charge, it may order the same produced.

h. REFUSAL OF WITNESS TO TESTIFY. When a witness under examination before the grand jury refuses to testify or to answer a question put to him, it shall proceed with the witness before a district court judge, and the foreman shall then distinctly state before a district court judge the question and the refusal of the witness, and if upon hearing the witness the court shall decide that he is bound to testify or answer the question propounded, he shall inquire of the witness if he persists in his refusal, and, if he does, shall proceed with him as in cases of similar refusal in open court.

i. EFFECT OF REFUSAL TO INDICT. If, upon investigation, the grand jury refuses to find an indictment against one charged with a public offense, it shall return all papers to the clerk, with an endorsement thereon, signed by the foreman, to the effect that the charge is ignored. Thereupon the district court judge must order the discharge of the defendant from custody if in jail, and the exoneration of bail if bail be given. Upon good cause shown, the district court judge may direct that the charge again be submitted to the grand jury. Such ignoring of the charge does not prevent the cause from being submitted to another grand jury as the court may direct; but without such direction it cannot be again submitted.

j. DUTY OF GRAND JURY. The grand jury shall inquire into all indictable offenses which may be tried within the county, and present them to the court by indictment.

It is made the special duty of the grand jury to inquire into:

(1) The case of every person imprisoned in the detention facilities of the county on a criminal charge and not indicted.

(2) The condition and management of the public prisons, county institutions and places of detention within the county.

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(3) The unlawful misconduct in office in the county public officers and employees.

Rule 4. INDICTMENT.

1. DEFINED. An indictment is an accusation in writi found and presented by a grand jury legally impaneled an sworn to the court in which it is impaneled, charging th the person named therein has committed an indictable pub offense, punishable on indictment.

2. USE OF INDICTMENT. Criminal offenses in which th punishment exceeds a fine of one hundred dollars or exce imprisonment for thirty days may be prosecuted to final judgment either on indictment or on information as provi in rule five (5).

3. EVIDENCE TO SUPPORT. An indictment should be fou when all the evidence, taken together, is such as in the judgment of the grand jury, if unexplained, would warrant a conviction by the trial jury; otherwise it should not. An indictment can be found only upon evidence given by witnesses produced, sworn, and examined before the grand ju or furnished by legal documentary evidence, or upon the stenographic or taped record of evidence given by witnesses before a committing magistrate. If an indictment is found in whole or in part upon testimony taken before a committi magistrate, the clerk of the grand jury shall write out a brief minute of the substance of such evidence, and the same shall be returned to the court with the indictment.

4. VOTE NECESSARY. An indictment cannot be found without the concurrence of five grand jurors. Every indictment must be endorsed "a true bill" and the endorsement signed by the foreman of the grand jury.

5. PRESENTATION AND FILING. An indictment, when found by the grand jury and properly endorsed, shall be presented to the court with the minutes of evidence of the witnesses relied on. The presentation shall be made by the foreman of the grand jury in the presence of the members of the grand

jury. The indictment, minutes of evidence, and all exhibits relating thereto shall be transmitted to the clerk of the court and filed by the clerk.

6. MINUTES.

a. A minute of evidence shall consist of a notice in writing stating the name, place of residence, and occupation of the witness upon whose testimony the indictment is found, and a full and fair statement of the witness' testimony before the grand jury.

b. COPY TO DEFENSE. Such minutes of evidence shall not be open for the inspection of any person except the judge of the court, the county attorney, or the defendant and his counsel. The clerk of the court must, on demand made, furnish the defendant or his counsel a copy thereof without charge.

c. MINUTES USED AGAIN. A grand jury may consider minutes of testimony previously heard by the same or another grand jury. In any case, a grand jury may take additional testimony.

7. CONTENTS OF INDICTMENT. An indictment is a plain, concise, and definite statement of the offense charged. The indictment shall be signed by the foreman of the grand jury. The names of all witnesses on whose evidence the indictment is found must be endorsed thereon. The indictment may be in the general indictment form set forth in the illustrative table of forms appended to the Iowa rules of criminal procedure. The indictment shall include the following:

a. The name of the accused, if known, and if not known, designation of the accused by any name by which he may be identified.

b. The name of the offense, identifying by number the statutory provision or provisions alleged to have been violated.

c. The time and place of the offense as definitely as can be done.

d. Where the means by which the offense is committed are necessary to charge an offense, a brief statement of the acts

or omissions by which the offense is alleged to have been committed.

No indictment is invalid or insufficient, nor can the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in a matter of form which does not prejudice a substantial right of the defendant.

8. AMENDMENT.

a. GENERALLY. The court may, on motion of the state, and before or during the trial, order the indictment or bill of particulars amended so as to correct errors or omissions in matters of form or substance. Amendment may be allowed before or during trial when no substantial rights of the defendant are prejudiced by the amendment, and if a wholly new and different offense is not charged.

b. AMENDMENT BEFORE TRIAL. If the application for an amendment be made before the commencement of the trial, the application and a copy of the proposed amendment shall be served upon the defendant, or upon his attorney of record, and an opportunity given the defendant to resist the same.

c. AMENDMENT DURING TRIAL. If the application be made during the trial, the application and the amendment may be dictated into the record in the presence of the defendant and his counsel, and such record shall constitute sufficient notice to the defendant.

d. CONTINUANCE. No continuance or delay in trial shall be granted because of such amendment unless it appears that defendant should have additional time to prepare because of such amendment.

e. AMENDMENT OF MINUTES. Minutes may be amended in the same manner and to the same extent that an indictment may be amended.

Rule 5. INFORMATION.

1. PROSECUTION ON INFORMATION. All indictable offenses may be prosecuted by a trial information. The prosecuting attorney may at any time, whether or not the grand jury is

in session, file an information with a district court judge or district associate judge charging a person with an indictable offense.

2. ENDORSEMENT. An information shall be endorsed "a true information" and shall be signed by the prosecuting attorney or in his name by an assistant prosecuting attorney.

3. WITNESS NAMES AND MINUTES. The prosecuting attorney shall, at the time of filing such information, endorse or cause to be endorsed thereon the names of the witnesses whose evidence he expects to introduce and use on the trial of the same, and shall also file with such information a minute of the evidence relating to the guilt of the accused of the offense charged of each witness whose name is so endorsed upon the information.

4. APPROVAL BY JUDGE. The information, before being filed, must be approved by a district court judge having jurisdiction of the offense. If not approved, the charge may be presented to the grand jury for consideration. At any time after judicial approval of an information, and prior to the commencement of trial, the court, on its own motion, may order said information set aside and said case submitted to the grand jury.

5. INDICTMENT RULES APPLICABLE. The information shall be drawn and construed, in matters of substance, as indictments are required to be drawn and construed. The term "indictment" embraces the trial information, and all provisions of law applying to prosecutions on indictments apply also to informations, except where otherwise provided for in these rules, or when the context requires otherwise.

6. INVESTIGATION BY PROSECUTING ATTORNEY. The clerk of the district court, on written application of the prosecuting attorney and the approval of the court, shall issue subpoenas for such witnesses as the prosecuting attorney may require in investigating an offense, and in such subpoenas shall direct the appearance of said witnesses before the prosecuting

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attorney at a specified time and place. Such application and judicial order of approval shall be maintained by the clerk in a confidential file until a charge is filed, in which event disclosure may thereafter be ordered by the court. The prosecuting attorney shall have the authority to administer oaths to said witnesses and shall have the services of the clerk of the grand jury in those counties in which such clerk is regularly employed. The rights and responsibilities of such witnesses shall otherwise be the same as a witness subpoenaed to the grand jury.

Rule 6. PLEADING SPECIAL MATTERS IN INDICTMENTS AND INFORMATIONS--MULTIPLE OFFENSES OR DEFENDANTS; PLEADING PRIOR CONVICTIONS; PLEADING STATUTES.

1. MULTIPLE OFFENSES. When the conduct of a defendant may establish the commission of more than one public offense arising out of the same transaction or occurrence, the defendant may be prosecuted for each of such offenses. Each of such offenses may be alleged and prosecuted as separate counts in a single complaint, information or indictment. Where the public offense which is alleged carries with it certain lesser included offenses, the latter should not be charged, and it is sufficient to charge that the accused committed the public offense.

2. PROSECUTION AND JUDGMENT. Upon prosecution for a crime, the defendant may be convicted of either the crime charged or an included crime, but not both. An included crime may be any of the following:

a. A lesser degree of the same crime;

b. An attempt which is prohibited by statute to commit the crime charged;

c. An attempt which is prohibited by statute to commit a lesser degree of the crime charged; or

d. A crime necessarily proved if the crime charged were proved, and carrying a sentence not in excess of that imposable for the offense charged;

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e. A crime designated by statute as a lesser included offense.

In charges of multiple offenses the court, in the interests of justice and for good cause, may in its discretion order that the different offenses or counts set forth in the indictment be tried separately or divided into two or more groups and each of said groups tried separately. Separate judgments shall be rendered on each count on which the accused is tried.

3. DUTY OF COURT TO INSTRUCT. In cases where the crime charged may include some lesser crime it is the duty of the trial court to instruct the jury, not only as to the crime charged but as to all lesser crimes of which the accused might be found guilty under the indictment and upon the evidence adduced, even though such instructions have not been requested or have been objected to.

4. CHARGING MULTIPLE DEFENDANTS.

a. MULTIPLE DEFENDANTS. Two or more defendants may be charged in the same indictment, information, or complaint if they are alleged to have participated in the same act or the same transaction or occurrence out of which the offense or offenses arose. Such defendants may be charged in one or more counts together or separately, and all the defendants need not be charged in each count.

b. PROSECUTION AND JUDGMENT. When an indictment charges a defendant with a felony, and the same indictment charges two or more defendants, those defendants jointly charged may be tried separately or jointly, in the discretion of the court; where jointly tried, each defendant shall be judged separately on each count.

5. ALLEGATIONS OF PRIOR CONVICTIONS. If the offense charged is one for which the defendant, if convicted, will be subject by reason of the Code, to an increased penalty because of prior convictions, the allegation of such convictions, if any, shall be contained in the indictment.

A supplemental indictment shall be prepared for the purpose of trial of the facts of the current offense only, and shall satisfy all pertinent requirements of the Code, except that it shall make no mention, directly or indirectly, of the allegation of the prior convictions, and shall be the only indictment read or otherwise presented to the jury prior to conviction of the current offense. The effect of this subdivision shall be to alter the procedure for trying, in one criminal proceeding, the offenses appropriate to its provisions, and not to alter in any manner the basic elements of an offense as provided by law.

6. PLEADING STATUTES. A pleading asserting any statute of another state, territory or jurisdiction of the United States, or a right derived therefrom, shall refer to such statute by plain designation and if such reference is made, the court shall judicially notice such statute.

Rule 7. PROCEEDINGS AFTER INDICTMENT OR INFORMATION.

1. ISSUANCE. Upon the request of the prosecuting attorney the court shall issue a warrant for each defendant named in the indictment or information. The clerk shall issue a summons instead of a warrant upon the request of the prosecuting attorney or by direction of the court. The warrant or summons shall be delivered to a person authorized by law to execute or serve it. If a defendant fails to appear in response to the summons, a warrant shall issue.

2. FORM.

a. WARRANT. The warrant shall be signed by the judge or clerk; it shall describe the offense charged in the indictment; and it shall command that the defendant shall be arrested and brought before the court. The amount of bail may be fixed by the court and endorsed on the warrant. The warrant may be substantially in the form described in the table of forms to the Iowa rules of criminal procedure. The warrant may be served in any county in the state.

b. SUMMONS. The summons shall be in the form described

in section four hundred two (402) of this chapter, except that it shall be signed by the clerk.

3. EXECUTION, SERVICE, AND RETURN.

a. EXECUTION OR SERVICE. The warrant shall be executed or the summons served as provided in division four (IV) of this chapter. A summons to a corporation shall be in the form prescribed in section seven hundred five (705) of this chapter. Upon the return of an indictment or upon the filing of trial information against a person confined in any penal institution, the court to which such indictment is returned may enter an order directing that such person be produced before it for trial. The sheriff shall execute such order by serving a copy thereof on the warden having such accused person in custody and thereupon such person shall be delivered to such sheriff and conveyed to the place of trial.

b. RETURN. The officer executing a warrant, or the person to whom a summons was delivered for service shall make return thereof to the court.

Rule 8. ARRAIGNMENT AND PLEA.

1. CONDUCT OF ARRAIGNMENT. Arraignment shall be conducted in open court without unnecessary delay. If the defendant appears for arraignment without counsel, he must, before proceeding therewith, be informed by the court of his right thereto, and be asked if he desires counsel; and if he does, and is unable to employ any, the court must assign him counsel, who shall have free access to him at all reasonable hours. Where the defendant makes an informed waiver of counsel, the court in its discretion may assign standby counsel to assist the accused. Arraignment shall consist of reading the indictment to the defendant or stating to him the substance of the charge and calling on him to plead thereto. The defendant shall be given a copy of the indictment or information before he is called upon to plead.

The defendant must be informed that if the name by which he is indicted or informed against is not his true name, he

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must then declare what his true name is, or be proceeded against by the name in the indictment, and asking him what he answers to the indictment. If he gives no other name or gives his true name, he is thereafter precluded from objecting to the indictment or information upon the ground of being therein improperly named. If he alleges that another name is his true name, the court must direct an entry thereof in the minutes of the arraignment, and the subsequent proceedings on the indictment shall be had against him by that name, and the indictment amended accordingly.

2. PLEAS TO THE INDICTMENT OR INFORMATION.

a. IN GENERAL. A defendant may plead guilty, not guilty, not guilty by reason of insanity, not triable by reason of present insanity, or a former judgment of conviction or acquittal of the offense charged. If the defendant fails or refuses to plead at arraignment, or if the court refuses to accept a guilty plea, the court shall enter a plea of not guilty. At any time before judgment, the court may permit a plea to be withdrawn and other plea or pleas substituted. A defendant who does not plead guilty may enter one or more of the other pleas.

b. PLEAS OF GUILTY. The court may refuse to accept a plea of guilty, and shall not accept such plea without first addressing the defendant personally and determining that the plea is made voluntarily. The defendant shall be informed of the following:

(1) The nature of the charge to which the plea is offered.

(2) The mandatory minimum punishment, if any, and the maximum possible punishment provided by the statute defining the offense to which the plea is offered.

(3) That the defendant has the right to plead not guilty, or to persist in that plea if it has already been made, or to plead guilty.

(4) That if he pleads guilty there will not be a further trial of any kind, so that by pleading guilty he waives the

right to a trial by jury or otherwise and the right to be confronted with the witnesses against him.

The court shall accept the guilty plea only after determining that the defendant understands these matters, that the plea is not the result of coercion or threats, and that there is a factual basis for same.

3. RECORD OF PROCEEDINGS. A verbatim record of the proceedings at which the defendant enters a plea shall be made and, if there is a plea of guilty, the record shall include, without limitation, the court's advice to the defendant, the inquiry into the voluntariness of the plea including any plea agreement.

Rule 9. PLEA BARGAINING.

1. IN GENERAL. The prosecuting attorney and the attorney for the defendant may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty to a charged offense or to a lesser or related offense, the prosecuting attorney will move for dismissal of other charges, or will recommend or not oppose the imposition of a particular sentence, or will do both.

2. ADVISING COURT OF AGREEMENT. If a plea agreement has been reached by the parties which contemplates entry of a plea of guilty in the expectation that a specific sentence will be imposed or that other charges before the court will be dismissed, the court shall require the disclosure of the agreement in open court at the time the plea is offered. Thereupon the court may accept or reject the agreement, or may defer its decision as to acceptance or rejection until receipt of a presentence report.

3. ACCEPTANCE OF PLEA. If the court accepts the plea agreement, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement or another disposition more favorable to the defendant than that provided for in the plea agreement.

4. REJECTION OF PLEA. If the court rejects the plea

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agreement, the court shall inform the parties of this fact, advise the defendant personally in open court that the cou is not bound by the plea agreement, afford the defendant t opportunity to then withdraw his plea, and advise the defe that if he persists in his guilty plea the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement.

5. INADMISSIBILITY OF PLEA DISCUSSIONS. If a plea discussion does not result in a plea of guilty, or if a p of guilty is not accepted or is withdrawn, or if judgment on a plea of guilty is reversed on direct or collateral re neither the plea discussion nor any resulting agreement, p or judgment shall be admissible in any criminal or civil action or administrative proceeding.

Rule 10. MOTIONS AND PLEADINGS.

1. PLEADINGS AND MOTIONS. Pleadings in criminal proceedings shall be the indictment and the information, and the pleas entered pursuant to rule eight (8). Demurrers, motions to quash, and motions to set aside are abolished, and defenses and objections raised before trial which heretofore could have been raised under them shall be raise by motion to dismiss, or a motion to grant appropriate rel as the case may be.

2. PRETRIAL MOTIONS. Any defense, objection, or reque which is capable of determination without the trial of the general issue may be raised before trial by motion. The following must be raised prior to trial:

a. Defenses and objections based on defects in the institution of the prosecution.

b. Defenses and objections based on defects in the indictment or information (other than that it fails to show jurisdiction in the court or to charge an offense which objections shall be noticed by the court at any time during the pendency of the proceeding).

c. Motions to suppress evidence on the ground that it

was illegally obtained.

d. Requests for discovery.

e. Requests for a severance of charges or defendants.

3. EFFECT OF FAILURE TO RAISE DEFENSES OR OBJECTIONS. Failure of the defendant to timely raise defenses or objections or to make requests which must be made prior to trial under this rule shall constitute waiver thereof, but the court for cause, upon motion supported by affidavit, may grant relief from such waiver.

4. TIME OF FILING. Motions hereunder, except a motion for a bill of particulars, shall be filed either within thirty days after arraignment or prior to the impaneling of the trial jury, whichever event occurs earlier, unless the period for filing is extended by the court for cause shown.

5. BILL OF PARTICULARS. When an indictment or information charges an offense in accordance with this rule but fails to specify the particulars of the offense sufficiently to fairly enable the defendant to prepare his defense, the court may, on written motion of the defendant, require the county attorney to furnish the defendant with a bill of particulars containing such particulars as may be necessary for the preparation of the defense. A motion for a bill of particulars may be made any time prior to or within ten days after arraignment unless the time be extended by the court for good cause shown. A plea of not guilty at arraignment does not waive the right to move for a bill of particulars if such motion is timely filed within this rule. The county attorney may furnish a bill of particulars on his own motion, or the court may order a bill of particulars without motion. Supplemental bills of particulars may be likewise ordered by the court or voluntarily furnished, or a new bill may be substituted for a bill already furnished. At the trial the state's evidence shall be confined to the particulars of the bill or bills.

6. DISMISSING INDICTMENT OR INFORMATION.

a. IN GENERAL. If it appears from the bill of particulars furnished pursuant to this rule that the particulars stated do not constitute the offense charged in the indictment or information, or that the defendant did not commit that offense or that a prosecution for that offense is barred by the statute of limitations, the court may and on motion of defendant shall dismiss the indictment or information unless the county attorney shall furnish another bill of particulars which so states the particulars as to show that the particulars constitute the offense charged in the indictment or information and that the offense was committed by the defendant and that it is not barred by the statute of limitations.

b. INDICTMENT. A motion to dismiss the indictment may be made on one or more of the following grounds:

(1) When the minutes of the evidence of witnesses examined before the grand jury are not returned therewith.

(2) When it has not been presented and marked "filed" as prescribed.

(3) When any person other than the grand jurors was present before the grand jury when the question was taken upon the finding of the indictment.

(4) When any person other than the grand jurors was present before the grand jury during the investigation of the charge, except as required or permitted by law.

(5) That the grand jury was not selected, drawn, summoned, impaneled, or sworn as prescribed by law.

c. INFORMATION. A motion to dismiss the information may be made on one or more of the following grounds:

(1) When the minutes of evidence have not been filed with the information.

(2) When the information has not been filed in the manner required by law.

(3) When the information has not been approved as required under rule five (5).

d. TIME OF MOTION. Entry of a plea of not guilty at

arraignment does not waive the right to move to dismiss the indictment or information if such motion is timely filed within this rule.

7. EFFECT OF DETERMINATION. If the court grants a motion based on a defect in the institution of the prosecution or in the indictment or information, it may also order that the defendant be held in custody or that his bail be continued for a specified period pending the filing of a new indictment or information if the same was dismissed by the court, or the amendment of any such pleading if the defect is subject to correction by amendment. Such period shall be subject to the provisions set forth in division two (II) of this chapter.

8. RULING ON MOTION. A pretrial motion shall be determined before trial. Where factual issues are involved in determining a motion, the court shall state its essential findings on the record.

9. MOTION FOR CHANGE OF VENUE.

a. TIME OF MOTION. A motion for change of venue shall be made as soon as the grounds therefor appear. Such motion may be made before, at, or after arraignment, until the time the jury is impaneled and sworn.

b. GROUNDS. The court upon motion shall transfer the proceeding to another county if the court is satisfied that there exists such prejudice in the original county that a fair and impartial trial cannot be had. If sustained on the ground of excitement and prejudice in the county, it must be transferred to another county in which no such objection exists.

c. SECOND CHANGE. When a change in place of trial has been granted to either the prosecution or the defense, the other party to whom no change has been granted, may, in the county to which the case has been sent, petition for a change in the same manner as though said county was the county in which the case was first pending. In such case, if the change

be granted, the case shall not be sent to the county in which it was originally pending.

d. PROCEEDINGS ON TRANSFER. When a transfer of the case is ordered to another county the clerk shall transmit to the clerk of the court to which the proceeding is transferred all papers in the proceeding or duplicates thereof and any bail taken, and the prosecution shall continue in that county. If the defendant is in custody, the court may order the defendant to be delivered to the sheriff of the county to which transfer of the case is allowed, and upon such delivery with a certified copy of the order therefor, the sheriff last mentioned must receive and detain the defendant. All expenses attendant upon the change of venue and trial, including the costs of keeping the defendant, which shall be allowed by the court trying the case, may be recovered by the county to which the case is transferred from the county in which the prosecution was commenced. The county attorney in the original county shall be responsible for the prosecution in such other county.

10. PLEADINGS OF DEFENDANT.

a. ALIBI.

(1) NOTICE. A defendant who intends to offer evidence of an alibi defense shall, within the time provided for the making of pretrial motions or at such later time as the court shall direct, inform the attorney for the government of such intention and file such notice. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi. If such intention and notice are made after the time period heretofore described, the defendant must move the court for leave to introduce such evidence, showing diligence supported by affidavit.

(2) FAILURE TO COMPLY. Upon the failure of the defendant to comply with the requirements of this rule, the court shall

exclude the testimony of any witness offered by such party as to the defendant's absence from the scene of the alleged offense. This rule shall not limit the right of the defendant to testify in his own behalf.

b. INSANITY.

(1) DEFENSE OF INSANITY. If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, he shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, inform the attorney for the government of such intention and file such notice. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

(2) MENTAL DISEASE OR DEFECT INCONSISTENT WITH THE MENTAL ELEMENT REQUIRED FOR THE OFFENSE CHARGED. If a defendant intends to introduce expert testimony relating to a mental disease, defect, or diminished mental capacity, he shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, inform the attorney for the government of such intention and file such notice. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

(3) BURDEN OF PROOF. Where the defendant relies upon the defense of insanity or mental disease or defect, he shall have the burden of proving such defense by a preponderance of the evidence.

Rule 11. SUPPRESSION OF EVIDENCE; DISPOSITION OF EVIDENCE OBTAINED BY SEIZURE.

1. MOTION TO SUPPRESS EVIDENCE. A person aggrieved by an unlawful search and seizure may move the district court which has jurisdiction to try the aggrieved person, to suppress for use as evidence anything so obtained on any of the following grounds:

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a. The property was illegally seized without a warrant.

b. The warrant is insufficient on its face.

c. The property seized is not that described in the warrant.

d. There was not probable cause for believing the existenc of the grounds on which the warrant was issued.

e. The warrant was illegally executed. The court shall receive evidence on any issue of fact necessary to the decisi of the motion. If the motion is granted the property shall be restored to its owner or legal custodian unless otherwise subject to lawful detention, and it shall not be admissible in evidence at any hearing or trial.

The motion shall be made before trial or hearing unless opportunity therefore did not exist or the defendant was unaware of the factual grounds for the motion; but the court in its discretion may entertain the motion at the trial or hearing, upon good cause supported by affidavit.

2. TRANSMISSION OF PAPERS TO DISTRICT COURT CLERK. The magistrate who has issued a search warrant shall attach to the warrant a copy of the return, inventory and all other papers in connection therewith and shall file them with the clerk of the district court for the county in which the property was seized.

3. DENIAL OF MOTION: EFFECT. If the motion to suppress is denied and the court finds the property seized to be of the illegal character subject to forfeiture, the court shall forthwith schedule a hearing wherein interested parties may show specific and legal cause why the property should not be forfeited. If no cause be shown, the court shall enter a judgment forfeiting such property to the state after such property is no longer required as evidence.

4. DISPOSITION OF PROPERTY WHETHER SUBJECT OF SUPPRESSION MOTION OR OTHERWISE. Stolen or embezzled property must, after fulfilling its usefulness as evidence, be restored to the owner or otherwise disposed of as provided in chapter six

hundred forty-five (645) of the Code. Other property shall be disposed of as the court shall in its sound discretion direct. Except where extraordinary circumstances exist, the property shall be restored to its rightful owner. Other dispositions include sale of unclaimed property at public auction with the proceeds distributed to the treasurer of the county to be credited to the county general fund; destruction of dangerous articles; or such other disposition as directed by the court.

5. APPEAL OF INTERLOCUTORY ORDER. Any party aggrieved by an interlocutory order affecting the validity of a search warrant or the suppression of evidence, except in simple misdemeanors, may apply for a writ of certiorari to the supreme court or any justice thereof to review the order in advance of trial.

Rule 12. DEPOSITIONS BY GOVERNMENT OR OTHERS.

1. WHEN TAKEN. Whenever due to special circumstances of the case it is in the interest of justice that the testimony of a prospective witness of a party be taken and preserved for use at trial, the court may upon motion of such party and notice to the parties order that testimony of such witness be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged, be produced at the same time and place. If a witness is committed as a material witness pursuant to division eleven (XI) of this chapter, the court, or magistrate if the defendant has not yet been held to answer in the district court, may direct that such witness' deposition be taken within the time prescribed by that chapter. The witness shall be discharged within a reasonable time after the deposition has been taken, or at the expiration of the period of detention prescribed in division eleven (XI) of this chapter, whichever earlier occurs.

2. NOTICE OF TAKING. The party at whose instance a deposition is to be taken shall give to every party reasonable

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written notice of the time and place for taking the deposi. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time or change the place for taking the deposition. The officer having custody of a defendant shall be notified of the timezand place set for the examination and shall, unless the defendant waives the right to be present, produce him at the examination and keep him in the presence of the wit. during the examination. A defendant not in custody shall have the right to be present at the examination subject to such termszas may be fixed by the court, but his failure, absent good cause shown, to appear after notice and tender of expenses in accordance with subdivision three (3) of thi. rule shall constitute a waiver of that right and of any objection to the taking and use of the deposition based upo. that right.

3. PAYMENT OF EXPENSES. Whenever a deposition is taken at the instance of the prosecuting attorney, or whenever a deposition is taken at the instance of a defendant who is unable to bear the expense of the taking of the deposition, the court may direct that the expenses of travel and subsistence of the defendant and his attorney for attendance at the examination shall be paid from the court expense fund of the county.

4. HOW TAKEN. Subject to such additional conditions as the court shall provide, a deposition shall be taken and fi. in the manner provided in civil actions except as otherwise provided in these rules, provided that in no event shall a deposition be taken of a party defendant without his consent, and the scope and manner of examination and cross-examinatio. shall be such as would be allowed in the trial itself. The government shall make available to the defendant or his counsel for examination and use at the taking of the deposition any statement of the witness being deposed which is in the

possession of the government and to which the defendant would be entitled at the trial.

5. USE. At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible under the rules of evidence, may be used as substantive evidence if the witness is unavailable, as defined in subdivision seven (7) of this rule, or the witness gives testimony at the trial or hearing inconsistent with his deposition. Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only a part of a deposition is offered in evidence by a party, an adverse party may require him to offer all of it which is relevant to the part offered and any party may offer other parts.

6. OBJECTIONS TO DEPOSITION TESTIMONY. Unless reserved by stipulation of the parties, objections to deposition testimony or evidence or parts thereof and the grounds for the objection shall be stated at the time of the taking of the deposition.

7. UNAVAILABILITY. "Unavailable" as a witness includes situations in which the declarant is any of the following:

a. Exempted by ruling of the judge on the ground of privilege from testifying concerning the subject matter of his statement.

b. Persistent in refusing to testify despite an order of the judge to do so.

c. Unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity.

d. Absent from the hearing and beyond the jurisdiction of the court to compel appearance and the proponent of his statement has exercised reasonable diligence but has been unable to procure his attendance.

8. DEPOSITION BY AGREEMENT NOT PRECLUDED. Nothing in this rule shall preclude the taking of a deposition, orally

or upon written questions, or the use of a deposition, by agreement of the parties with the consent of the court.

Rule 13. DISCOVERY.

1. WITNESSES EXAMINED BY THE PROSECUTING ATTORNEY. When a witness subpoenaed by the prosecuting attorney pursuant to rule five (5) is summoned by him after complaint, indictment or information, the defendant shall be present and have the opportunity to cross-examine any witnesses whose appearance before the county attorney is required by this rule.

2. DISCLOSURE OF EVIDENCE BY THE GOVERNMENT UPON DEFENSE MOTION OR REQUEST.

a. DISCLOSURE REQUIRED UPON REQUEST.

(1) Upon pretrial motion of a defendant the court shall order the attorney for the government to permit the defendant to inspect and copy or photograph: Any relevant written or recorded statements made by the defendant or copies thereof, within the possession, custody or control of the government, unless same shall have been included with the minutes of evidence accompanying the indictment or information; the substance of any oral statement made by the defendant which the government intends to offer in evidence at the trial, including any voice recording of same; and the transcript or record of testimony of the defendant before a grand jury, whether or not the government intends to offer same in evidence upon trial.

(2) When two or more defendants are jointly charged, upon motion of any defendant the court shall order the attorney for the government to permit the defendant to inspect and copy or photograph any written or recorded statement of a codefendant which the government intends to offer in evidence at the trial, and the substance of any oral statement which the government intends to offer in evidence at the trial made by a codefendant whether before or after arrest in response to interrogation by any person known to the codefendant to be a government agent.

(3) Upon motion of the defendant, the court shall order the government to furnish to defendant such copy of his prior criminal record, if any, as is then available to the government.

b. DISCRETIONARY DISCOVERY.

(1) Upon motion of the defendant the court may order the attorney for the government to permit the defendant to inspect, and where appropriate, subject to scientific tests, items seized by the government in connection with the alleged crime. The court may further allow the defendant to inspect and copy books, papers, documents, statements, photographs or tangible objects which are within the possession, custody or control of the government, and which are material to the preparation of his defense, or are intended for use by the government as evidence at the trial, or were obtained from or belong to the defendant.

(2) Upon motion of a defendant the court may order the attorney for the government to permit the defendant to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, made in connection with the particular case, or copies thereof, within the possession, custody or control of the government.

3. DISCLOSURE OF EVIDENCE BY THE DEFENDANT.

a. DOCUMENTS AND TANGIBLE OBJECTS. If the court grants the relief sought by the defendant under subdivision two (2), paragraph b, subparagraph one (1), of this rule, the court may, upon motion of the government, order the defendant to permit the government to inspect and copy books, papers, documents, statements other than those of the accused, photographs or tangible objects which are not privileged and are within the possession, custody or control of the defendant and which the defendant intends to introduce in evidence at trial.

b. REPORTS OF EXAMINATIONS AND TESTS. If the court grants relief sought by the defendant under subdivision two (2),

paragraph b, subparagraph one (1), of this rule, the
may, upon motion of the government, order the defenda
permit the government to inspect and copy the results
reports of physical or mental examinations and of scie
tests or experiments made in connection with the parti
case, or copies thereof, within the possession or cont
of the defendant and which the defendant intends to int
in evidence at the trial or which were prepared by a wi
whom the defendant intends to call at the trial when su
results or reports relate to his testimony.

c. TIME OF MOTION. A motion for the relief provide
subdivision two (2) of this rule shall be made, if at all
within five days after any order granting similar relief
the defendant.

d. CONTINUING DUTY TO DISCLOSE. If, subsequent to co
ance with an order issued pursuant to this rule, a defend
discovers additional evidence, or decides to use evidence
which is additional to that originally intended for use, and
such additional evidence is subject to discovery under this
rule, he shall promptly notify the prosecutor of the existe
of the additional evidence to allow the prosecution to make
an appropriate motion for additional discovery.

e. FAILURE TO EMPLOY EVIDENCE. When evidence intended
for use and furnished under this rule is not actually employ
at the trial, that fact shall not be commented upon at trial.

4. REGULATION OF DISCOVERY.

a. PROTECTIVE ORDERS. Upon a sufficient showing the court
may at any time order that the discovery or inspection be
denied, restricted or deferred, or make such other order as
is appropriate. Upon motion by a party the court may permit
a party to make such showing, in whole or in part, in the
form of a written statement to be inspected by the judge
alone. If the court enters an order granting relief following
such a showing, the entire text of the party's statement shall
be sealed and preserved in the records of the court to be

made available to the appellate court in the event of an appeal.

b. TIME, PLACE AND MANNER OF DISCOVERY AND INSPECTION. An order of the court granting relief under this rule shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.

c. FAILURE TO COMPLY. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order such party to permit the discovery or inspection, grant a continuance, or prohibit the party from introducing any evidence not disclosed, or it may enter such other order as it deems just under the circumstances.

(1) SECRECY OF GRAND JURY. Except where specific provisions require otherwise, grand jury proceedings remain confidential. However, any member of the grand jury and the clerk thereof, and any officer of the court, may be required by the court or any legislative committee duly authorized to inquire into the conduct or acts of any state officer which might be the basis for impeachment proceedings, to disclose the testimony of a witness examined before the grand jury for the purpose of ascertaining whether it is consistent with that given by him before the court or legislative committee, or to disclose the same upon a charge of perjury against the witness, or when in the opinion of the court or legislative committee such disclosure is necessary in the administration of justice.

No grand juror shall be questioned for anything he may say or any vote he may give in the grand jury relative to a matter legally pending before it, except for perjury of which he may have been guilty in making an accusation, or giving testimony to his fellow jurors.

Rule 14. SUBPOENAS.

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1. FOR WITNESSES. A magistrate in a criminal action before him, and the clerk of court in any criminal action pending therein, shall issue blank subpoenas for witnesses, signed by him, with the seal of the court if by the clerk, and deliver as many of them as requested to the defendant or his attorney or the attorney for the state. Subpoenas for defendants' witnesses shall show whether they are summoned on the order of the court after a finding that the witness is material and necessary for the defense.

2. FOR PRODUCTION OF DOCUMENTS--DUCES TECUM. A subpoena may contain a clause directing the witness to bring with him any book, writing, or other thing under his control which he is bound by law to produce as evidence. The court on motion may quash or modify the subpoena if compliance would be unreasonable or oppressive.

3. SERVICE. A subpoena may be served in any part of the state. It may be served by any adult person. A peace officer making service in a criminal case must serve without delay in his county, city, or town any subpoena delivered to him for service and make a written return stating the time, place, and manner of service. When service is made by other than a peace officer, proof thereof shall be by affidavit. Service is made by showing the original to the witness and delivering a copy to him. If a witness conceals himself to avoid service of a subpoena, the officer may break open doors or windows for the purpose of making service. A witness who is subpoenaed may demand his fee in advance, except where the subpoena is issued in behalf of the state or under order of court.

4. DEFENDANTS UNABLE TO PAY. Witnesses for the defense may be subpoenaed at the expense of the county only upon the order of the court or the judge thereon before which the case is pending, where there is satisfactory showing that:

a. The witness is material and necessary for the defense.

b. The defendant is financially unable to pay the fees of the witness.

Witnesses so subpoenaed shall be paid in the same manner that costs and fees are discharged in the case of witnesses subpoenaed in behalf of the government.

c. DEPOSITIONS. An order to take a deposition authorizes the issuance by the clerk of the court for the county in which the deposition is to be taken to issue subpoenas for the persons named or described therein.

d. SANCTIONS FOR REFUSING TO APPEAR OR TESTIFY. Disobedience to a subpoena without adequate excuse, or refusal to be sworn or to answer as a witness, may be punished by the court or magistrate as a contempt. The attendance of a witness who so fails to appear may be coerced by attachment. A witness willfully disobeying a subpoena in a criminal case without good cause shall be liable to the party injured for the full amount of the damages sustained by the party.

Rule 15. PRETRIAL CONFERENCE.

1. WHEN HELD. Where a plea of other than guilty to an indictment or trial information is entered on behalf of the defendant, the court may order all parties to the action to appear before it for a conference to consider such matters as will promote a fair and expeditious trial.

2. DISCUSSIONS AND RECORD. The conference may explore such matters as amendment of pleadings, agreement to the introduction into evidence of photographs or other exhibits to which there is no objection, submission of requested jury instructions, and any other matters appropriate for discussion which may aid and expedite trial of the case.

3. STIPULATIONS AND ORDERS. The court shall make an order reciting any action taken at the conference which will control the subsequent course of the action relative to matters it includes, unless modified to prevent manifest injustice. A stipulation entered into at such conference shall bind the defendant at trial, on appeal, or in a post-conviction proceeding only if signed by both the defendant and his attorney and filed with the clerk.

Rule 16. TRIAL BY JURY OR COURT.

1. TRIAL BY COURT ALLOWED. Cases required to be tried by jury shall be so tried unless the defendant waives a jury trial in writing.

2. FINDINGS. In a case tried without a jury the court shall make a general finding. Where requested by any party before or during trial, the court shall find the facts specially and in writing, separately stating its conclusions of law and directing an appropriate judgment. A request for findings is not a condition precedent for review of the judgment.

Rule 17. JURIES.

1. RULES FOR DRAWING. The rules for drawing the jury shall be the same as those provided in civil procedure.

2. COMPLETION OF PANEL. 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.

3. CHALLENGES TO THE PANEL. All the provisions of law relating to challenges to the panel of trial jurors in civil procedure, the grounds therefor, the manner of exercising the same, and the effect thereof, shall apply to the panel of trial jurors in criminal cases.

4. CHALLENGES TO INDIVIDUAL JUROR. A challenge to an individual juror is an objection which may be taken orally, and is either for cause or peremptory.

5. CHALLENGES FOR CAUSE. A challenge for cause may be made by the state or defendant, and must distinctly specify the facts constituting the causes thereof. It may be made for any of the following causes:

a. A previous conviction of the juror of a felony.

b. A want of any of the qualifications prescribed by statute to render a person a competent juror.

c. Unsoundness of mind, or such defects in the faculties of the mind or the organs of the body as render him incapable

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of performing the duties of a juror.

d. Affinity or consanguinity, within the fourth degree, to the person alleged to be injured by the offense charged, or on whose preliminary information, or at whose instance, the prosecution was instituted, or to the defendant, to be computed according to the rule of the civil law.

e. Standing in the relation of guardian and ward, attorney and client, employer and employee, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose preliminary information, or at whose instance, the prosecution was instituted, or in his employ on wages.

f. Being a party adverse to the defendant in a civil action, or having been the prosecutor against or accused by him in a criminal prosecution.

g. Having served on the grand jury which found the indictment.

h. Having served on a trial jury which has tried another defendant for the offense charged in the indictment.

i. Having been on a jury formerly sworn to try the same indictment and whose verdict was set aside, or which was discharged without a verdict after the cause was submitted to it.

j. Having served as a juror, in a civil action brought against the defendant, for the act charged as an offense.

k. Having formed or expressed such an opinion as to the guilt or innocence of the prisoner as would prevent him from rendering a true verdict upon the evidence submitted on the trial.

l. Because of his being bail for any defendant in the indictment.

m. Because he is defendant in a similar indictment, or complainant or private prosecutor against the defendant or any other person indicted for a similar offense.

n. Because he is, or within a year preceding has been,

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engaged or interested in carrying on any business, calling, or employment, the carrying on of which is a violation of law, where the defendant is indicted for a like offense.

o. Because he has been a witness, either for or against the defendant, on the preliminary hearing or before the grand jury.

p. Having requested, directly or indirectly, that his name be returned as a juryman for the regular biennial period.

6. EXAMINATION OF JURORS. Upon examination the jurors shall be sworn. If an individual juror is challenged, he may be examined as a witness to prove or disprove the challenge, and must answer every question pertinent to the inquiry thereon, but his answer shall not afterwards be testimony against him. Other witnesses may also be examined on either side. The rules of evidence applicable to the trial of other issues shall govern the admission or exclusion of testimony on the trial of the challenge, and the court shall determine the law and the fact, and must allow or disallow the challenge.

7. ORDER OF CHALLENGES FOR CAUSE. The state shall first complete its challenge for cause, and the defendant afterwards, until sixteen jurors have been obtained against whom no cause of challenge has been found to exist.

8. ORDER OF CHALLENGES IN GENERAL. The challenges of either party need not be all taken at once, but separately, in the following order, including in each challenge all the causes of challenge belonging to the same class: To the panel; to an individual juror for cause; to an individual juror peremptorily.

9. PEREMPTORY CHALLENGES. Peremptory challenges shall be exercised in the same manner as is provided in the trial of civil actions.

10. PEREMPTORY CHALLENGES--NUMBER. If the offense charged in the indictment or information is or may be punishable with imprisonment for life, the state and defendant shall each

have the right to peremptorily challenge eight jurors and shall strike two jurors.

If the offense charged be a felony, the state and the defendant shall each have the right to peremptorily challenge four jurors and shall strike two jurors.

If the offense charged be a misdemeanor, the state and the defendant shall each have the right to peremptorily challenge two jurors and shall strike two jurors.

11. MULTIPLE CHARGES. If the indictment charges different offenses in different counts, the state and the defendant shall each have that number of peremptory challenges which they would have if the highest grade of offense charged in the indictment were the only charge.

12. MULTIPLE DEFENDANTS. In a case where more than one defendant is tried, each defendant shall have one-half the number of challenges allowed in subdivision eleven (11) of this rule. The state shall be limited to the challenges and strikes specified in subdivision eleven (11). The defendants collectively shall be limited to two strikes.

13. CLERK TO PREPARE LIST--PROCEDURE. The clerk shall prepare a list of jurors called; and, after all challenges for cause are exhausted or waived, the parties, commencing with the state, shall alternately challenge peremptorily or waive by indicating any such challenge upon the list opposite the name of the juror challenged, or by indicating the number of waiver elsewhere on the list.

14. VACANCY FILLED. After each challenge, sustained for cause, or made peremptorily as indicated on the list, another juror shall be called and examined for challenge for cause before a further challenge is made; and any new juror thus called may be challenged for cause and shall be subject to peremptory challenge or to being struck from the list as other jurors.

15. READING OF NAMES. After all challenges have thus been exercised or waived and four jurors have been struck

from the list the clerk shall read the names of the twelve jurors remaining who shall constitute the jury selected.

16. JURORS SWORN. When twelve jurors are accepted they shall be sworn to try the issues.

17. ALTERNATE JURORS. The court may impanel one or more alternate jurors whose qualifications, powers, functions, facilities, and privileges shall be the same as regular jurors. After the regular jury is selected, the clerk shall draw the names of three more persons if one alternate juror is desired, or four more persons if two alternate jurors are desired, and so on in like proportion, who are to serve under this rule, who shall be sworn and subject to examination and challenge for cause as provided in this rule. Each party must then strike off one such name, and the one or two or appropriate number remaining shall be sworn to try the case with the regular jury, and sit at the trial. Alternate jurors shall, in the order they were drawn, replace any juror who becomes unable to act, or is disqualified, before the jury retires, and if not so needed shall then be discharged.

Rule 18. TRIAL.

1. ORDER OF TRIAL AND ARGUMENTS.

a. ORDER OF TRIAL. The jury having been impaneled and sworn, the trial must proceed in the following order:

(1) READING INDICTMENT AND PLEA. The clerk or prosecuting attorney must read the indictment or the supplemental indictment as required under the provision of the Code, and state the defendant's plea to the jury.

(2) STATEMENT OF STATE'S EVIDENCE. The prosecuting attorney may briefly state the evidence by which he to sustain the indictment.

(3) STATEMENT OF DEFENDANT'S EVIDENCE. The att the defendant may then briefly state his defense, c waive the making of such statement; he may not res right to make such statement to a time immediately presentation of defendant's evidence.

(4) OFFER OF STATE'S EVIDENCE. The state may then offer the evidence in support of the indictment.

(5) OFFER OF DEFENDANT'S EVIDENCE. The defendant or his counsel may then offer his evidence in support of his defense.

(6) REBUTTING OR ADDITIONAL EVIDENCE. The parties may then, respectively, offer rebutting evidence only, unless the court, for good reasons, in furtherance of justice, permit them to offer evidence upon their original case.

b. ORDER OF ARGUMENT.

(1) ARGUMENTS. When the evidence is concluded, unless the case is submitted to the jury on both sides without argument, the prosecuting attorney must commence, the defendant follow by one or two counsel, at his option, unless the court permits him to be heard by a larger number, and the prosecuting attorney conclude, confining himself to a response to the arguments of the defendant's counsel. Where two or more defendants are on trial for the same offense, they may be heard by one counsel each.

(2) CLOSING ARGUMENT BY DEFENDANT. When the affirmative of the issue is with the defendant, the court may, in its discretion, award to the defendant the last argument.

2. ADVANCE NOTICE OF EVIDENCE SUPPORTING INDICTMENTS OR INFORMATIONS. The prosecuting attorney, in offering trial evidence in support of an indictment, shall not be permitted to introduce any witness the minutes of whose testimony was not presented with the indictment to the court; in the case of informations, a witness may testify in support thereof if his identity and a minute of the witness' evidence has been given pursuant to these rules. However, these provisions are subject to the following exception: Additional witnesses may be presented by the prosecuting attorney if he has given the defendant's attorney of record, or the defendant if he has no attorney, a minute of such witness' testimony, at least four days before the commencement of the trial.

3. FAILURE TO GIVE NOTICE. Whenever the prosecuting

attorney desires to introduce evidence to support the indictment, of which he shall not have given four days' notice because of insufficient time therefor since he learned said evidence could be obtained, he may move the court for leave to introduce such evidence, giving the same particulars as in the former case, and showing diligence, supported by affidavit. Except where the evidence goes to merely formal matters, if the court sustains said motion, the defendant shall elect whether said cause shall be continued on his motion, or the witness shall then testify. If said defendant shall not elect to have said cause continued, the prosecuting attorney may examine said witness in the same manner and with the same effect as though four days' notice had been given defendant or his attorney as hereinbefore provided, except the prosecuting attorney, in the examination of witnesses, shall be strictly confined to the matters set out in his motion.

4. REPORTING OF TRIAL. All the provisions relating to mode and manner of the trial of civil actions, report thereof, translation of the shorthand reporter's notes, the making of such reports and translation of the record, and in all other respects, apply to the trial of criminal actions.

5. THE JURY UPON TRIAL.

a. VIEW.

(1) WHEN TAKEN. When the court is of the opinion that it is proper, the jury should view the place in which the offense is charged to have been committed, or in which any other material fact occurred. It may order the jury to be conducted in a body, in the custody of proper officers, to the place, which shall be shown them by a person appointed by the court for that purpose.

(2) ATTENDING OFFICERS. The officers must be sworn to suffer no person to speak to or communicate with the jury on any subject connected with the trial, or to do so themselves, except the person appointed by the court for that

purpose, and that only to show the place to be viewed, and to return them into court without unnecessary delay at a specified time.

b. JUROR MAY NOT BE WITNESS. A member of the jury may not testify as a witness in the trial of the case in which he is sitting as a juror. If he is called to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

c. ALTERNATE JURORS; SEPARATION AND DELIBERATION OF JURORS. The court may impanel alternate jurors, which may replace jurors originally selected, in the manner provided in civil cases. The jurors shall be kept together unless the court permits the jurors to separate as in civil cases; and the officers having charge of the jury shall suffer no person to communicate with them except as provided for in civil cases.

d. ADMONITION TO JURORS. The jury, whether permitted to separate or kept together in charge of sworn officers, must be admonished by the court that it is their duty not to permit any person to speak to or communicate with them on any subject connected with the trial, and that any and all attempts to do so should be immediately reported by them to the court, and that they should not converse among themselves on any subject connected with the trial, or form or express an opinion thereon, until the cause is finally submitted to them. Said admonition must be given or referred to by the court at each adjournment during the progress of the trial previous to the final submission of the cause to the jury.

e. NOTES TAKEN BY JURORS DURING TRIAL; EXHIBITS USED DURING DELIBERATIONS. Notes may be taken by jurors during the testimony of witnesses. All jurors shall have an equal opportunity to take notes. The court shall instruct the jury to mutilate and destroy any notes taken during the trial at the completion of the jury's deliberations. Upon retiring

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for deliberations the jury may take with it all papers and exhibits which have been received in evidence, any notes of testimony taken in the trial by the jurors, and the court's instructions. Provided, however, the jury shall not take with it depositions, nor shall it take original public records and private documents as ought not, in the opinion of the court, to be taken from the person having them in possession.

f. INSTRUCTIONS. Upon the conclusion of the arguments, the court shall charge the jury in writing, without oral explanation or qualification, stating the law of the case. The rules relating to the instruction of juries in civil cases shall be applicable to the trial of criminal prosecutions. After hearing the charge, the jury may either decide in court or retire for deliberation.

g. REPORT FOR INFORMATION. After the jury has retired for deliberation, if there be any disagreement as to any part of the testimony, or if it desires to be informed on any point of law arising in the cause, it must require the officer to conduct it into court, and, upon its being brought in, the information required may be given, in the discretion of the trial court. Where further information as to the testimony which was given at trial is taken by the jury, this shall be accomplished by the court reporter or other appropriate official reading from the reporter's notes. Where the court gives the jury additional instructions, this shall appear of record. Provided, that the procedures described in this section shall take place in the presence of counsel for the defense and prosecution, or after oral notice to the county attorney and defendant's counsel and provision of an opportunity to same to be present.

h. SEPARATION OF JURORS. On final submission, the jury shall retire for deliberation, and be kept together in charge of an officer until they agree on a verdict or are discharged by the court, unless the court permits the jurors to separate temporarily overnight, on weekends or holidays, or in emer-

gencies. During their deliberations, the officer in charge must not suffer any communication to be made to them, nor make any himself, except to ask them if they have agreed on a verdict, unless by order of court; nor communicate to any person the state of their deliberations, or the verdict agreed upon before it is rendered.

6. RETRIAL OF DEFENDANTS WHEN ORIGINAL JURY IS DISCHARGED, AND IN OTHER CASES.

a. ILLNESS OF JURORS AND OTHER CASES. The court may discharge a jury because of any accident or calamity requiring it, or by consent of all parties, or when on an amendment a continuance is ordered, or if they have deliberated until it satisfactorily appears that they cannot agree. The case shall be retried immediately or at a future time, as the court directs.

b. LACK OF JURISDICTION; NO OFFENSE CHARGED. The court may also discharge the jury where it appears that it has no jurisdiction of the offense, or that the facts as charged in the indictment do not constitute an offense punishable by law.

c. CRIME COMMITTED IN ANOTHER STATE. If the jury be discharged because the court has not jurisdiction of the offense charged in the indictment, the offense being committed out of the jurisdiction of this state, the defendant must be discharged, or ordered to be retained in custody a reasonable time until the prosecuting attorney shall have a reasonable opportunity to inform the chief executive of the state in which the offense was committed of the facts, and for said officer to require the delivery of the offender.

d. NO OFFENSE CHARGED--RESUBMISSION. If the jury be discharged because the facts set forth do not constitute an offense punishable by law, the court must order the defendant discharged and his bail, if any, exonerated, or, if he has deposited money instead of bail, that the money deposited be refunded, or that any conditions upon his release from

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custody be discharged. If in the court's opinion a new indictment can be framed upon which the defendant can be legally convicted, the court may direct that the case be submitted to the same or another grand jury.

7. THE TRIAL JUDGE.

a. COMPETENCY OF JUDGE AS WITNESS. The judge presiding at the trial shall not testify in that trial as a witness. If he is called to testify, no objection need be made in order to preserve the point.

b. DISABILITY OF TRIAL JUDGE.

(1) DURING TRIAL. If by reason of death, sickness or other disability the judge before whom a jury trial has commenced is unable to proceed with the trial, any other judge regularly sitting in or assigned to the court, upon certifying that he has familiarized himself with the record of the trial, may proceed with and finish the trial.

(2) AFTER VERDICT OR FINDING OF GUILT. If by reason of absence, death, sickness or other disability the judge before whom the defendant has been tried is unable to perform the duties to be performed by the court after a verdict or finding of guilty, any other judge regularly sitting in or assigned to the court may perform those duties; but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

c. ADJOURNMENTS DECLARED BY TRIAL COURT. While the jury is absent, the court may adjourn from time to time as to other business, but it shall be nevertheless deemed open for every purpose connected with the cause submitted to the jury until a verdict is rendered or the jury is discharged.

8. MOTION FOR JUDGMENT OF ACQUITTAL.

a. MOTION BEFORE SUBMISSION TO JURY. The court on motion of a defendant or of its own motion shall order the entry of judgment of acquittal of one or more offenses charged in the indictment after the evidence on either side is closed

if the evidence is insufficient to sustain a conviction of such offense or offenses. If a defendant's motion for judgment of acquittal at the close of the evidence offered by the prosecuting attorney is not granted, the defendant may offer evidence without having waived his right to rely on such motion.

b. RESERVATION OF DECISION ON MOTION. If a motion for judgment of acquittal is made at the close of all the evidence, the court may reserve decision on the motion, submit the case to the jury and decide the motion either before the jury returns a verdict or after it returns a verdict or is discharged without having returned a verdict.

9. TRIAL OF QUESTIONS INVOLVING PRIOR CONVICTIONS. After conviction of the primary or current offense, but prior to pronouncement of sentence, if the indictment or information alleges one or more prior convictions which by the Code subjects the offender to an increased sentence, he shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted, or that he was not represented by counsel. If he denies he is the person previously convicted, sentence shall be postponed for such time as to permit a trial before a jury on the issue of the offender's identity with the person previously convicted. Other objections shall be heard and determined by the court, and these other objections shall be asserted prior to trial of the substantive offense in the manner presented in rule ten (10). On the issue of identity, the court may in its discretion reconvene the jury which heard the current offense or dismiss that jury and submit the issue to another jury to be later impaneled. If the offender is found by the jury to be the person previously convicted, or if he acknowledged that he is such person, he shall be sentenced as prescribed in the Code.

Rule 19. WITNESSES.

1. COMPETENCY OF WITNESSES; CROSS-EXAMINATION OF THE

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ACCUSED. The rules for determining the competency of witnesses in civil actions are, so far as they are in their nature applicable, extended also to criminal actions and proceedings, except as otherwise provided. A defendant in a criminal action or proceeding shall be a competent witness in his own behalf, but cannot be called by the state. If he offers himself as a witness, he may be cross-examined as an ordinary witness, but the state shall be strictly confined therein to the matters testified to in the examination in chief.

2. COMPELLING ATTENDANCE OF WITNESSES FROM WITHOUT THE STATE TO PROCEEDINGS IN IOWA. The presence and testimony of a witness located outside the state may be secured through the uniform act to secure witnesses from without the state set forth in division nineteen (XIX) of this chapter.

3. IMMUNITY.

a. Before any witness shall be compelled to answer or to produce evidence in any judicial proceeding after having asserted that such answer or evidence would tend to render him criminally liable, incriminate him or violate his right to remain silent under the fifth amendment to the Constitution of the United States, the witness must knowingly waive his right or:

(1) A county attorney or the attorney general must file with a district court judge or district associate judge a verified application setting forth that:

The testimony of the witness, or the production of documents or other evidence in the possession of such witness, or both, is necessary and material; and

The witness has refused to testify, or to produce documents or other eivdence, or both, upon the ground that such testimony or evidence would tend to incriminate him; and

It is the considered judgment of the county attorney or attorney general that justice and the public interest require the testimony, documents or evidence in question.

(2) The application, transcripts and orders required by

this subsection shall be filed as a separate case in the criminal docket entitled "In the matter of the testimony of (Name of witness)" and shall be indexed in the criminal index under the name of the witness. Any testimony given in support of the application for immunity shall be reported and a transcript of the testimony shall be filed with the application.

(3) Upon consideration of such application the judge shall enter an order granting the witness immunity to prosecution for any crime or public offense concerning which he was compelled to give competent and relevant testimony or to produce competent and relevant evidence.

(4) Testimony, documents or evidence which has been given by a witness granted immunity shall not be used against him in any trial or proceeding, or subject him to any penalty or forfeiture; provided, that such immunity shall not apply to any prosecution or proceeding for a perjury or a contempt of court committed in the course of or during the giving of such testimony.

b. A complete verbatim transcript of testimony given pursuant to an order of immunity shall be made and filed with the application and the order of court. The application, order granting immunity and all transcripts filed shall be sealed upon motion of the defendant, county attorney, or attorney general and shall be opened only by order of the court. This section shall not bar the use of the transcript as evidence in any proceeding except the transcript shall not be used in any proceeding against the witness himself.

c. Whoever shall refuse to testify or to produce evidence after having been granted immunity as aforesaid shall be subject to punishment for contempt of court as in the case of any witness who refuses to testify, a claim to privilege against self-incrimination notwithstanding.

4. WITNESSES FOR INDIGENTS. Counsel for a defendant who is financially unable to obtain expert or other witnesses

necessary to an adequate defense of the case may request compensation in a written application. Upon finding, after appropriate inquiry, that the services are necessary and that the defendant is financially unable to provide compensation, the court shall authorize counsel to obtain such witnesses on behalf of the defendant. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them pursuant to division fifteen (XV) of this chapter.

Rule 20. EVIDENCE.

1. RULES. The rules of evidence prescribed in civil procedure shall apply to criminal proceedings as far as applicab and not inconsistent with the provisions of this rule.

2. QUESTIONS OF LAW AND FACT. Upon jury trial of a criminal case, questions of law are to be decided by the court, saving the right of the defendant and state to object; questions of fact are to be tried by jury.

3. OBSTRUCTING HIGHWAY BY RAILROAD. In a prosecution against a railway company for obstructing a highway or any private way, proof that any such way is in an unsafe conditio or that it is inconvenient for travel at the place of its intersection with such railway, shall be presumptive evidence that such company has obstructed such way.

4. CORROBORATION OF ACCOMPLICE OR PERSON SOLICITED. A conviction cannot be had upon the testimony of an accomplice or a solicited person, unless corroborated by other evidence which shall tend to connect the defendant with the commission of the offense; and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

5. CONFESSION OF DEFENDANT. The confession of the defendant, unless made in open court, will not warrant a conviction unless accompanied with other proof that the defendant committed the offense.

6. PRIOR INCONSISTENT STATEMENT UNDER OATH. Evidence

of a statement made under oath or affirmation by a witness is admissible if this prior statement is inconsistent with his testimony at a trial or hearing, and the witness is given an opportunity to explain or to deny the statement.

7. PRELIMINARY HEARING TESTIMONY WHERE WITNESS IS UNAVAILABLE. When the witness is unavailable the prior reported testimony of a witness who was subject to cross-examination at the preliminary hearing is admissible.

8. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS OF SEXUAL ABUSE. In prosecutions for the crime of sexual abuse, evidence of the prosecuting witness' previous sexual conduct shall not be admitted, nor reference made thereto in the presence of the jury, except as provided herein. Evidence of the prosecuting witness' previous sexual conduct shall be admissible if the defendant shall make application to the court before or during the trial.

The court shall conduct a hearing in camera as to the relevancy of such evidence of previous sexual conduct, and shall limit the questioning and control the admission and exclusion of evidence upon trial.

In no event shall such evidence of previous sexual conduct of the prosecuting witness committed more than one year prior to the date of the alleged crime be admissible upon the trial, except previous sexual conduct with the defendant. Nothing in this section shall limit the right of either the state or the accused to impeach credibility by the showing of prior felony convictions.

Rule 21. VERDICT.

1. FORM OF VERDICTS. In open court the jury must render a verdict of "guilty", which imports a conviction, or "not guilty" or "not guilty by reason of insanity" which imports acquittal, on the material allegations in the charge; however, upon a plea of former conviction or acquittal of the same offense, it shall be "for the state" or "for the defendant". The jury shall return a verdict determining the degree of

guilt in cases submitted to determine the grade of the offense.

2. ANSWERS TO INTERROGATORIES. It must also return with the general verdict answers to special interrogatories submitted by the court upon its own motion, or at the request of the defendant in prosecutions where the defense is an affirmative one, or it is claimed any witness is an accomplice, or there has been a failure to corroborate where corroboration is required.

3. FINDING OFFENSE OF DIFFERENT DEGREE; INCLUDED OFFENSES. Upon trial of an offense consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the indictment or information, and guilty of any degree inferior thereto, or of an attempt to commit the offense when such attempt is prohibited by law. In all cases, the defendant may be found guilty of any offense the commission of which is necessarily included in that with which he is charged.

4. SEVERAL DEFENDANTS. On an indictment or information against several defendants, if the jury cannot agree upon a verdict as to all, it may render a verdict as to those in regard to whom it does agree, on which a judgment shall be entered accordingly, and the case as to the rest may be tried by another jury. Upon an indictment or information against several defendants, any one or more may be convicted or acquitted.

5. RETURN OF JURY; READING AND ENTRY OF VERDICT; UNANIMOUS VERDICT. The jury agreeing on a verdict with not more than one dissenting vote, shall bring the verdict into court, where it shall be read to them, and inquiry made if it is their verdict. A party may then require a poll asking each juror if it is his verdict. If more than one juror express disagreement on such poll or inquiry, the jury shall be sent out for further deliberation; otherwise, the verdict is complete and the jury shall be discharged. When the verdict is given and is such as the court may receive, the clerk may

enter it in full upon the record.

6. VERDICT INSUFFICIENT; RECONSIDERATION; INFORMAL VERDICT. If the jury renders a verdict which is in none of the forms specified in this rule, or a verdict of guilty in which it appears to the court that the jury was mistaken as to the law, the court may direct the jury to reconsider it, and it shall not be recorded until it is rendered in some form from which the intent of the jury can be clearly understood. If the jury persists in finding an informal verdict, from which, however, it can be understood that the intention is to find for the defendant upon the issue, it shall be entered in the terms in which it is found, and the court must give judgment of acquittal.

7. DEFENDANT DISCHARGED ON ACQUITTAL. If judgment of acquittal is given on a general verdict of not guilty, and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given.

8. ACQUITTAL ON GROUND OF MENTAL ILLNESS; COMMITMENT. If the defense is mental illness of the defendant, the jury must be instructed, if it acquits him on that ground, to state that fact in its verdict. Upon hearing, the court may thereupon, if the defendant is found to be dangerous to the public peace and safety, order him committed to one of the mental health institutes or the Iowa security medical facility, or retained in custody, until he demonstrates good mental health and is considered no longer dangerous to the public peace and safety or to himself.

9. PROOF NECESSARY TO SUSTAIN VERDICT OF GUILTY.

a. REASONABLE DOUBT. Where there is a reasonable doubt of the defendant being proven to be guilty, he is entitled to an acquittal.

b. REASONABLE DOUBT AS TO DEGREE. Where there is a reasonable doubt of the degree of the offense of which the defendant is proved to be guilty, he shall only be convicted of the degree as to which there is no reasonable doubt.

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Rule 22. JUDGMENT.

1. ENTRY OF JUDGMENT OF ACQUITTAL OR CONVICTION. Upon a verdict of not guilty for the defendant, or special verdict upon which a judgment of acquittal must be given, the court must render judgment of acquittal immediately. Upon a plea of guilty, verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court must fix a date for pronouncing judgment, which must be within a reasonable time but not less than eight days after the plea is entered or the verdict is rendered, unless defendant consents thereto.

2. FORFEITURE OF BAIL; WARRANT OF ARREST. If the defendant has been released on bail, or has deposited money instead thereof, and does not appear for judgment when his personal appearance is necessary, the court, in addition to the forfeiture of the undertaking of bail or money deposited, may make an order directing the clerk, on the application of the county attorney at any time thereafter, to issue a warrant into one or more counties for his arrest, which may be substantially in the form illustrated in the appendix of forms to these rules. The warrant may be served in any county in the state. The officer must arrest the defendant and bring him before the court, or commit him to the officer mentioned in the warrant.

3. IMPOSITION OF SENTENCE.

a. INFORMING THE DEFENDANT. When the defendant appears for judgment, he must be informed by the court or the clerk under its direction, of the nature of the indictment, his plea, and the verdict, if any thereon, and be asked whether he has any legal cause to show why judgment should not be pronounced against him.

b. WHAT MAY BE SHOWN FOR CAUSE. He may show for cause against the judgment that he is insane, or any sufficient ground for a new trial, or in arrest of judgment.

c. INSANITY. If the court is of the opinion that there

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is reasonable ground for believing him insane, the question of his insanity shall be determined as provided in the Code, and if he is found to be insane, such proceedings shall be had as are herein directed.

d. JUDGMENT ENTERED. If no sufficient cause is shown why judgment should not be pronounced, and none appears to the court upon the record, judgment shall be rendered. Prior to such rendition, counsel for the defendant, and the defendant personally, shall be allowed to address the court where either wishes to make a statement in mitigation of punishment. In every case the court shall include in the judgment entry the number of the particular section of the Code under which the defendant is sentenced.

e. NOTIFICATION OF RIGHT TO APPEAL. After imposing sentence in a case, the court shall advise the defendant of his right to appeal as provided in rule fifteen point one (15.1) of the rules of the supreme court.

f. CLERICAL MISTAKES. Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

g. WITHDRAWAL OF PLEA OF GUILTY. At any time before judgment, the court may permit the plea of guilty to be withdrawn and other plea or pleas substituted.

Rule 23. MOTIONS AFTER TRIAL.

1. IN GENERAL. Permissible motions after trial include motions for new trial, motions in arrest of judgment, and motions to correct a sentence.

2. NEW TRIAL.

a. PROCEDURAL STEPS IN SEEKING OR ORDERING NEW TRIAL. A motion for a new trial shall be made within six days after verdict or finding of guilty. The defendant's motion for a new trial shall be made before judgment, but where based upon newly discovered evidence may be made after judgment

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as well. Provided, however, that not later than fifteen days after a general verdict or the filing of a decision or order, the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In any case the court shall specify in the order the grounds therefor.

b. GROUNDS.

The court may grant a new trial for any or all of the following causes:

(1) When the trial has been held in the absence of the defendant, in cases where such presence is required by law, except as provided in rule twenty-seven (27).

(2) When the jury has received any evidence, paper or document out of court not authorized by the court.

(3) When the jury have separated without leave of court, after retiring to deliberate upon their verdict, or have been guilty of any misconduct tending to prevent a fair and just consideration of the case.

(4) When the verdict has been decided by lot, or by means other than a fair expression of opinion on the part of all jurors.

(5) When the court has misdirected the jury in a material matter of law, or has erred in the decision of any question of law during the course of the trial, or when the prosecuting attorney has been guilty of prejudicial misconduct during the trial thereof before a jury.

(6) When the verdict is contrary to law or evidence.

(7) When the court has refused properly to instruct the jury.

(8) When the defendant has discovered important and material evidence in his favor since the verdict, which he could not with reasonable diligence have discovered and produced

at the trial. A motion based upon this ground may be made within two years after final judgment, but such motion may be considered thereafter upon a showing of good cause. When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits, the court may postpone the hearing of the motion for such length of time as, under all circumstances of the case, may be reasonable.

(9) When from any other cause the defendant has not received a fair and impartial trial.

c. TRIALS WITHOUT JURIES. On a motion for a new trial in an action tried without a jury, the court may where appropriate, in lieu of granting a new trial, vacate the judgment if entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and enter judgment accordingly.

d. EFFECT OF A NEW TRIAL. The granting of a new trial places the parties in the same position as if no trial had been had; all the testimony must be produced anew and the former verdict cannot be used or referred to either in evidence or argument.

e. TIME OF DECISION. A motion for new trial shall be heard and determined by the court within thirty days from the date it is filed, except upon good cause entered in the record.

3. ARREST OF JUDGMENT.

a. MOTION IN ARREST OF JUDGMENT: DEFINITION AND GROUNDS. A motion in arrest of judgment is an application by the defendant that no judgment be rendered on a finding, plea, or verdict of guilty. Such motion shall be granted when upon the whole record no legal judgment can be pronounced.

b. TIME OF MAKING MOTION BY PARTY. The motion must be made and determined before the judgment is pronounced, and

shall be filed within six days after finding, plea, or verdict of guilty.

c. ON MOTION OF COURT. The court may also, at any time before judgment is pronounced, arrest the judgment on its own motion.

d. EFFECT OF ORDER ARRESTING JUDGMENT. The effect of an order arresting judgment is to place the defendant in the same situation in which he was immediately before the indictment was found or the information filed.

e. PROCEEDINGS AFTER ORDER ARRESTING JUDGMENT. If, from the evidence on the trial, there is reasonable ground to believe the defendant guilty, and a new indictment or information can be framed, the court may order him to be recommitted to the officer of the proper county, or admitted to bail or otherwise released anew, to answer the new indictment. In such case the order arresting judgment shall not be a bar to another prosecution. But if the evidence upon trial appears to the trial court insufficient to charge the defendant with any offense, he must, if in custody, be released; or, if admitted to bail, his bail be exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant.

f. TIME OF DECISION. A motion in arrest of judgment shall be heard and determined by the court within thirty days from the date it is filed, except upon good cause entered in the record.

4. GENERAL PRINCIPLES.

a. EXTENSIONS. The time for filing motions for new trial or in arrest of judgment may be extended to such further time as the court may fix during the six-day period.

b. DISPOSITION. If the defendant moves for a new trial, or in arrest of judgment, the court shall defer the judgment and proceed to hear and decide the motions.

c. APPEAL. Appeal from an order granting or denying a

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motion for new trial or in arrest of judgment may be taken by the state or the defendant. Where the court has denied the motion for new trial or in arrest of judgment, or both, appeal may be had only after judgment is pronounced.

d. CUSTODY PENDING APPELLATE DETERMINATION. Pending determination by the supreme court of such appeal, the trial court shall determine whether the defendant shall remain in custody, or whether, if in custody, he should be released on bail or his own recognizance. Where the trial court has arrested judgment and an appeal is taken by the state, and it further appears to the trial court that there is no evidence sufficient to charge the defendant with an offense, the defendant shall not be held in custody.

e. REINSTATEMENT OF VERDICT. In the event the supreme court reverses the order of the trial court arresting judgment or granting a new trial, it shall order that the verdict be reinstated, unless the supreme court finds other errors, in which event it may order that the verdict be set aside and a new trial be granted.

5. CORRECTION OF SENTENCE.

a. TIME WHEN CORRECTION OF SENTENCE MAY BE MADE. The court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner, or reduce a sentence, within one hundred twenty days after the sentence is imposed, or within one hundred twenty days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal.

b. CREDIT FOR TIME SERVED. The defendant shall receive full credit for time spent in custody under the sentence prior to correction or reduction.

Rule 24. EXECUTION AND STAY THEREOF.

1. MECHANICS OF EXECUTION.

a. COPY OF JUDGMENT. When a judgment of confinement, either in the penitentiary or county jail or other detention facility, is pronounced, an execution, consisting of a

certified copy of the entry of judgment must be forthwith furnished to the officer whose duty it is to execute the same, who shall proceed and execute it accordingly, and no other warrant or authority is necessary to justify or require its execution.

b. EXECUTION AND RETURN WITHIN COUNTY; CONFINEMENT. A judgment for confinement to be executed in the county where the trial is had shall be executed by the sheriff thereof, and return made upon the execution, which shall be delivered to and filed by the clerk of said court.

c. EXECUTIONS OUTSIDE COUNTY; CONFINEMENT.

(1) Under all other judgments for confinement, the sheriff shall deliver a certified copy of the execution with the body of the defendant to the keeper of the jail or penitentiary in which the defendant is to be confined in execution of the judgment, and take his receipt therefor on a duplicate copy thereof, which he must forthwith return to the clerk of the court in which the judgment was rendered, with his return thereon, and a minute of said return shall be entered by the clerk as a part of the record of the proceedings in the cause in which the execution issued.

(2) When such defendant is discharged from custody, the jailer or warden of the place of confinement shall make return of such fact to the proper court, and an entry thereof shall be made by its clerk as is required in the first instance.

d. EXECUTION FOR FINE.

(1) Upon a judgment for a fine, an execution may be issued as upon a judgment in a civil case, and return thereof shall be made in like manner.

(2) Judgments for fines, in all criminal actions rendered, are liens upon the real estate of the defendant, and shall be entered upon the lien index in the same manner and with like effect as judgments in civil actions.

e. EXECUTION IN OTHER CASES. When the judgment is for the abatement or removal of a nuisance, or for anything other

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than confinement or payment of money by the defendant, an execution consisting of a certified copy of the entry of such judgment, delivered to the sheriff of the proper county, shall authorize and require him to execute such judgment, and he shall return the same, with his doings under the same thereon endorsed, to the clerk of the court in which the judgment was rendered, within seventy days after the date of the certificate of such certified copy.

f. DAYS IN JAIL BEFORE TRIAL CREDITED. The defendant shall receive full credit for time spent in custody on account of the offense for which he is convicted.

2. STAY OF EXECUTION.

a. CONFINEMENT. A sentence of confinement shall be stayed if an appeal is taken and the defendant is released pending disposition of appeal pursuant to division fourteen (XIV).

b. FINE AND OTHER CASES. The defendant may have a stay of execution for the same length of time and in the same manner as provided by law in civil actions, and with like effect, and the same proceedings may be had therein.

c. PROBATION. An order placing the defendant on probation may be stayed if an appeal is taken. If not stayed, the court shall specify when the term of probation shall commence. If the order is stayed the court shall fix the terms of the stay.

Rule 25. PRESENCE OF DEFENDANT; REGULATION OF CONDUCT BY THE COURT.

1. FELONY OR MISDEMEANOR. In felony cases the defendant shall be present at the arraignment, at the time of the plea, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule. In other cases he may appear by counsel.

2. CONTINUED PRESENCE NOT REQUIRED. In all cases, the progress of the trial or any other proceeding shall not be prevented whenever a defendant, initially present, does one

of the following:

a. Voluntarily absents himself after the trial or other proceeding has commenced.

b. Engages in conduct which is such as to justify his being excluded from the courtroom.

3. PRESENCE NOT REQUIRED. A defendant need not be present in the following situations:

a. A corporation may appear by counsel for all purposes.

b. The defendant's presence is not required at a reduction of sentence under rule twenty-three (23).

4. REGULATION OF CONDUCT IN THE COURTROOM.

a. The taking of photographs in the courtroom during the progress of judicial proceedings or radio broadcasting or televising of judicial proceedings from the courtroom shall not be permitted by the court, except for appropriate noncommercial purposes upon agreement by the prosecutor and the written consent of the defendant.

b. When a defendant engages in conduct seriously disruptive of judicial proceedings, one or more of the following steps may be employed to ensure decorum in the courtroom:

(1) Cite the defendant for contempt.

(2) Take him out of the courtroom until he promises to conduct himself properly.

(3) Bind and gag him, thereby keeping him present.

c. When a person who is present in the courtroom is supposed by a magistrate or a judge to have upon his person a weapon, the magistrate or judge may direct that such person be searched, and any weapon be retained subject to order of the court.

Rule 26. RIGHT TO ASSIGNED COUNSEL.

1. REPRESENTATION. Every defendant who is an indigent as defined in section three hundred thirty-six A point four (336A.4) of the Code shall be entitled to have counsel assigned to represent him at every stage of the proceedings from his initial appearance before the magistrate or the court through

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appeal, including probation and parole revocation hearings, unless he waives such appointment.

2. COMPENSATION. When counsel is assigned to represent an indigent defendant, or to serve as standby counsel as provided in rule eight (8), compensation shall be paid as directed in division fifteen (XV) of this chapter.

Rule 27. DISMISSAL OF PROSECUTIONS; RIGHT TO SPEEDY TRIAL.

1. DISMISSAL GENERALLY: EFFECT. The court, upon its own motion or the application of the county attorney, in the furtherance of justice, may order the dismissal of any pending criminal prosecution, the reasons therefor being stated in the order and entered of record, and no such prosecution shall be discontinued or abandoned in any other manner. Such a dismissal is a bar to another prosecution for the same offense if it is a misdemeanor; but it is not a bar if the offense charged be a felony.

2. SPEEDY TRIAL. It is the public policy of the state of Iowa that criminal prosecutions be concluded at the earliest possible time consistent with a fair trial to both parties.

1. Except where specifically authorized by law, no person shall be held in custody unless, at the earliest practicable time, a complaint be filed against him charging the commission of a public offense.

2. When a person has been arrested, cited, or summoned to appear for an indictable public offense, if an indictment be not filed against him within forty-five days, the court on its own motion must order the case dismissed unless good cause for the grant of additional time be shown. Such forty-five day limitation shall apply likewise from the date of an order directing resubmission of an ignored charge, or submission of a rejected county attorney's information, to a grand jury, where the person is held to answer such charge. Good cause shall be the following and no other:

Conditions beyond the control of the prosecuting attorney making it impossible to obtain necessary and material evidence

within such forty-five day period but which will be obtainable on the grant of additional time, only as shown necessary, but not exceeding twenty days. Such grant of additional time shall be on written application filed before the expiration of such forty-five day period with notice to the defendant through his attorney, and on summary hearing of record to the court. The ruling and the grounds therefor shall be detailed in the record. The agreement of the defendant to such application shall be immaterial on the question of good cause.

3. If a defendant charged with a public offense be not brought to trial within ninety days after an indictment is filed against him, or order for new trial or retrial, the court on its own motion must dismiss it unless good cause for continuance be shown. If the charge be a nonindictable offense, the time period shall be sixty days. Such grant of continuance shall be on written application filed before the expiration of such ninety or sixty days, as the case may be. Notice shall be given to the prosecutor or the defendant through his attorney. A summary hearing of record to the court shall be held as soon as possible but within ten days. The ruling and the grounds therefor shall be detailed in the record within two days. The agreement of the other party to the application for continuance shall be immaterial on the question of good cause. If the grounds for the application be illness or injury, medical information may be required and the court may require medical examinations and reports. Good cause shall be the following and no other:

a. Conditions beyond the control of the prosecuting attorney or defendant's attorney making it impossible to obtain necessary and material evidence within the original time limit of subdivision three (3) of this rule, but which evidence will be obtainable on the grant of a continuance, only as shown necessary, but not exceeding thirty days.

b. An illness, injury or other unforeseen event as to

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the prosecuting attorney who is to prosecute the case making it impossible to conduct a fair trial within the original time limit of subdivision three (3) of this rule, but the continuance shall be only as shown necessary and not exceeding sixty days.

c. An illness, injury or other unforeseen event as to the defendant or his attorney who is to defend the case making it impossible to conduct a fair trial in the defendant's presence within the original time limit of subdivision three (3) of this rule, but the continuance shall be only as shown necessary; provided, that as to the defendant's attorney, such continuance shall not exceed sixty days. If, at the initial hearing for continuance, such sixty-day period appears insufficient, the defendant shall be required to obtain or accept other counsel.

4. In computing the time period set out in subsection c the following shall be excluded:

a. Time involved for examinations, proceedings and commitments under chapter seven hundred eighty-three (783) of the Code. (mental incapacity to stand trial)

b. Time during which a defendant cannot be located or has absconded and is thus unavailable for trial, providing that the prosecuting attorney has exercised due diligence to apprehend the defendant.

c. Time involved in interlocutory appeals or certiorari proceedings from the date of filing to fourteen days after the filing of the order or ruling disposing thereof.

d. Time involved in trial of the defendant on other charges plus fourteen days.

e. A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time limit for trial has not run. Where severance of trials is granted the time limit shall not run in the second and succeeding cases before fourteen days after the first trial is concluded.

f. The period of delay resulting from detention of the

defendant in another county or jurisdiction, provided the prosecuting attorney has been diligent and has made reasonable efforts to obtain the presence of the defendant for trial.

g. The next fourteen days following the grant of a change of venue.

h. Where the application of the time limits would result in a second trial to the same jury panel, or subpanel, of substantially the same evidence against another defendant, or another charge against the same defendant.

5. In extraordinary circumstances where either party feels the application of the time limits set out herein will work a substantial injustice, not due to his fault or lack of diligence, he may make a verified application to the court before the expiration of the applicable time limit setting forth such grounds in detail. The court shall set the application for prompt hearing of record and prescribe notice to the other party. The agreement of the other party to such application shall be immaterial. The ruling and the grounds therefor shall be detailed in the record. On the required showing the court may extend the time limits as shown necessary to relieve against such substantial injustice.

6. The time limits herein are satisfied as to trials when the trial is commenced within the time limit. Where a time limit expires on a Saturday, Sunday or holiday, it shall be extended to the next business day.

7. Within forty-five days after indictment the court shall assign criminal cases for trial to commence within the applicable time limit.

8. Dismissals under subdivision two (2) of this rule shall not be a bar to a later filing of an indictment. Dismissals under subdivision three (3) of this rule shall operate as a bar to further prosecutions arising out of the act or acts upon which the dismissed indictment was based.

Rule 28. MOTIONS AND OTHER PAPERS.

1. MOTIONS. An application to the court for an order

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shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state the grounds upon which it is made and shall set forth the relief or order sought. It may be supported by affidavit.

2. SERVICE OF MOTIONS AND PAPERS. Service and filing of written motions, notices and other similar papers shall be in the manner provided in civil actions.

Rule 29. RULES OF COURT.

1. DISTRICT COURT PRACTICE RULES. Any rules made by courts governing local practice therein shall be consistent with these rules and applicable statutes.

2. PROCEDURES NOT SPECIFIED THEREIN. If no procedure is specifically prescribed by these rules or by statute, the court may proceed in any lawful manner not inconsistent with same.

3. APPLICATION TO JUVENILE PROCEEDINGS. In all cases involving juveniles, the juvenile court shall, in the exercise of its discretion, determine initially whether these rules shall apply to the juvenile proceedings before it. In any case where such determination is affirmatively made, the court shall so declare by order. In exercising its discretion to apply these rules, the court may consider the seriousness of the conduct allegedly committed by the juvenile and whether such conduct, if proved, would constitute a state or local law violation if committed by an adult.

Rule 30. ADDITIONS TO AND AMENDMENT OF RULES. These rules may be amended, provisions deleted, and new rules added, in the manner prescribed for civil rules under chapter six hundred eighty-four (684) of the Code.

Rule 31. FORMS. The forms contained in the appendix of forms are illustrative and not mandatory, and any particular instrument may be in more or less the form illustrated.

Rule 32. TITLE. These rules shall be known as the rules of criminal procedures. (R.Cr.P.)

APPENDIX OF FORMS

(See Rule 31)

FORM 1

SEARCH WARRANT

State of Iowa

County of _____

To any peace officer of the state:

Proof having been this day made before me as provided by law that (here, with reasonable certainty and in accordance with the information and other proof obtained by the magistrate, designate the property, its location, the person in possession thereof, and the unlawful use or purpose to which it has been, or is being employed or held) and being satisfied that the foregoing recital relative to said property is probably true, now, therefore, you are commanded to make immediate search of (here state whether the search is of the person of a named person or of said premises, or of another designated thing) and if said property or any part thereof be found, you are commanded to bring said property forthwith before me at my office.

Dated at _____ this _____ day of _____, _____.

_____

(official title)

FORM 2

ARREST WARRANT ON A COMPLAINT

State of Iowa

County of _____

To any peace officer of the state:

Complaint upon oath or affirmation having been this day filed with me, charging that the crime (naming it) has been committed and accusing A_____ B_____ _____ thereof:

You are commanded forthwith to arrest the said A_____ _____ B_____ and bring him

before me at (naming the place), or, in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at _____ this _____ day of _____, _____.

C_____ D_____

(with official title)

FORM 3

ARREST WARRANT AFTER INDICTMENT OR INFORMATION

State of Iowa

County of _____

To any peace officer in the state:

An indictment (information) having been filed in the district court of said county on the _____ day of _____, _____, (the day on which the indictment (information) is filed) charging A. B. with the crime of (here designate the offense by the number of the statutory provision and name of the offense if it have one, or by a brief general description of it, substantially as in the indictment).

You are hereby commanded to arrest the said A. B. and bring him before said court to answer said indictment.

Signed this _____ day of _____, _____.

(Seal) _____

Clerk or Judge

By order of the judge of the court.

There may be added to the above, "Let the defendant be admitted to bail in the amount of _____ dollars (or subject to other conditions endorsed on the warrant)."

If the offense be a misdemeanor, the warrant may be in a similar form, adding to the body thereof a direction substantially to the following effect: "Or, if the said A. B. require it, that you take him before a magistrate or the clerk of the district court in said county, or in the county in which you arrest him, that he may give bail to answer the said indictment", and the clerk may make an endorsement thereon

to the following effect: "The defendant is to be admitted to bail in the sum of _____ dollars" (the amount fixed by the judge).

FORM 4

ARREST WARRANT WHEN DEFENDANT FAILS TO APPEAR FOR SENTENCING

State of Iowa

County of _____

To any peace officer in the state:

A_____ B_____,

having been duly convicted on the _____ day of _____, _____, in the district court of _____ County, of the crime of (here state the name of the offense and the statutory provision).

You are hereby commanded to arrest the said A_____ _____ B_____ and bring him before said court for judgment.

Signed this _____ day of _____, _____.

_____

Clerk or Judge

FORM 5

BAIL BOND

State of Iowa

County of _____

An indictment (or charge) having been found (or made) in the district court (or other appropriate court) of the county of _____ on the _____ day of _____, _____, charging A_____ B_____ _____ with the crime of _____ (designating it as in the warrant, indictment, or complaint), and he having been duly admitted to bail in the sum of _____ dollars:

We, A_____ B_____ and E_____ F_____, hereby undertake that the said A_____ B_____ shall appear at the _____

court of the county of _____, on the _____ day of _____, _____, and answer the said indictment (or charge), and submit to the orders and judgment of said court, and not depart without leave of same, or, if he fail to perform either of these conditions, that he will pay to the State of Iowa the sum of _____ (inserting the sum in which the defendant is admitted to bail).

A_____ B_____

E_____ F_____

Acknowledged before and accepted by me at _____, in the township of _____, in the county of _____ this _____ day of _____, _____.

G_____ H_____

(with official title)

FORM 6

ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL

State of Iowa

County of _____

To the sheriff of the County of _____:

C_____ D_____,

who is detained by you on commitment (or indictment or conviction, as the case may be) for the offense of (here designate it generally), having given sufficient bail to answer the same, you are commanded forthwith to discharge him from custody.

Dated at _____, in the township (town or city) of _____, in the county of _____, this _____ day of _____, _____.

K_____ L_____

(with official title)

FORM 7

ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL: ANOTHER FORM

(For endorsement on warrant or order of commitment)

State of Iowa

County of _____

To the officer (naming him and his official title, thus A_____ B_____, Sheriff of _____ County) having in custody C_____ _____ D_____ (naming him):

The defendant named in the within warrant of arrest (or order of commitment) now in your custody under the authority thereof for the offense therein designated, having given sufficient bail to answer the same by the undertaking herewith delivered to you, you are commanded forthwith to discharge him from custody, and, without unnecessary delay, deliver this order, together with the said undertaking of bail, to _____ _____ (name and address of the appropriate district court clerk, or the court or magistrate who issued the warrant).

Dated at _____ this _____ day of _____, _____.

E_____ F_____
(with official title)

FORM 8

TRIAL INFORMATION

(also designated County Attorney's Information)

IN THE DISTRICT COURT OF _____ COUNTY

STATE OF IOWA

vs. INFORMATION

A_____ B_____

Comes now _____, as county attorney of _____ County, State of Iowa, and in the name and by the authority of the State of Iowa accuses A_____ B_____ of the crime of (here insert the name of the offense, number of the statutory provision and whether felony or misdemeanor), committed as follows:

The said A_____ B_____, on or about the _____ day of _____, _____ (inserting the year) in the county of _____, and State of Iowa,

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did (here insert the acts or omissions constituting the offense).

_____

County Attorney

State of Iowa

County of _____ ss.

I, _____, being first duly sworn, do depose and say, that I have made full and careful investigation of the facts upon which the above charge is based, and that the allegations contained in the above and foregoing information are true, as I verily believe.

_____

Subscribed and sworn to by _____ before me, the undersigned, this _____ day of _____, _____.

_____

(Here insert title of official before whom verification is made.)

Upon the information shall be endorsed the following:

(a) A true information

_____

County Attorney

(b) Names of witnesses:

_____

_____

_____

(c) On this _____ day of _____, _____ being satisfied from the showing made herein that this cause should (or should not, as the case may be) be prosecuted by information, the same is approved (or disapproved and the charge is ordered submitted to the grand jury, as the case may be).

_____

Judge of District Court

(d) This information duly filed in the district court, this _____ day of _____, _____.

_____

(Clerk of the District Court of _____ County, State of Iowa)

By_____

Deputy Clerk

(e) Bail is hereby fixed on the within information in the sum of $_____.

_____

(Here insert official title of judge or clerk, as case may be)

FORM 9

GENERAL INDICTMENT FORM

IN THE DISTRICT COURT OF IOWA IN AND FOR _____ COUNTY

STATE OF IOWA

vs. INDICTMENT

A_____ B_____

The grand jurors of the county of _____ accuse A_____ B_____ of (here state the offense and whether felony or misdemeanor) in violation of (here state by number the statutory section violated) and charge that the said A_____ B_____ on or about the _____ day of _____, _____, in the county of _____ and State of Iowa, (here briefly insert any particulars of the offense, such as the name of the victim in a criminal homicide case).

A true bill.

/s/_____

Foreman of grand jury

Names of witnesses:

_____

_____

_____

FORM 10

INDICTMENT

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(short forms)

The following forms may be used in cases in which they may be applicable:

Abandoning Child: A.B. wrongfully abandoned C.D., a child (or a disabled person) who was in the custody of said A.B.

Arson: A.B. committed arson in the _____ degree upon (a dwelling) the property of C.D. (of a value exceeding $500) (thus endangering E.F.).

Assaults: A.B. assaulted C.D. while participating in (name felony) (thereby causing serious injury to C.D.); A.B. assaulted C.D. and thereby intentionally caused serious injury to C.D.; A.B. administered a harmful substance (name substance) to C.D.

Attempts: A.B. attempted to (state substantive offense).

Bigamy: A.B. committed bigamy by marrying C.D. while said A.B. had a living spouse, D.B.

Bomb threat: A.B. communicated a bomb threat to C.D.

Bribery: A.B. bribed C.D.; A.B. solicited (received) a bribe from C.D. (an elector) (an election official).

Burglary: A.B. committed burglary in the _____ degree upon the property of C.D. (briefly set out circumstances if first degree is charged; e.g., while carrying a dangerous weapon).

Carrying weapon: A.B. carried a concealed weapon; A.B. carried a (describe firearm) within the city limits of (name city); A.B. carried a handgun in a vehicle.

Compounding felony: A.B., knowing that C.D. had committed a felony, compounded that felony.

Conspiracy: A.B. conspired with C.D. to commit (state substantive offense) (a class _____ felony; a _____ misdemeanor).

Criminal mischief: A.B. committed criminal mischief in the _____ degree upon the property of (name owner).

Criminal trespass: A.B. committed criminal trespass upon the property of (name owner) (thus injuring C.D.) (causing

more than $100 in damage).

Detention in brothel: A.B. detained C.D. in a brothel.

Disturbance: A.B. willfully disturbed (name body or agency).

Driving under suspension: A.B. operated a motor vehicle while his license was (under suspension) (revoked).

Escape: A.B. escaped from custody: A.B. permitted C.D. to escape from custody.

Extortion: A.B. committed extortion upon C.D.

False imprisonment: A.B. falsely imprisoned C.D.

False information: A.B., while attempting to purchase a handgun, falsely stated (set out false statement); A.B., on an application for a weapons permit, falsely stated (set out false statement).

False report of destructive substance: A.B. falsely reported a bomb to C.D.

False use of financial instrument: A.B. falsely used a financial instrument, to wit: (set out type of instrument).

Falsifying public documents: A.B. falsified public documents; A.B. wrongfully possessed a seal of (name agency).

Feticide: A.B. committed feticide by causing the death of the fetus of C.D.

Fraudulent practices: A.B. committed a fraudulent practice by (state briefly the fraudulent practice).

Furnishing controlled substance: A.B. furnished a controlled substance, to wit: (name controlled substance) to C.D., an inmate of (name institution); A.B. introduced a controlled substance, to wit: (name controlled substance) into (name institution).

Furnishing pornography to minor: A.B. furnished pornography to C.D., a minor.

Going armed with intent: A.B. went armed with intent.

Harassment of public officer: A.B. harassed C.D. (state title or position).

Homicide: A.B. committed homicide in the _____ degree,

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resulting in the death of C.D.

Impersonating public official: A.B. falsely impersonated a public official.

Improper voting: A.B. improperly voted (knowing himself not to be qualified) (having already voted once in that election).

Incest: A.B. committed incest with C.D.

Indecent exposure: A.B. indecently exposed himself to C.D.

Insurrection: A.B., acting with C.D. and E.F., participated in an insurrection.

Kidnapping: A.B. committed kidnapping in the _____ degree by kidnapping C.D.

Lascivious acts with a child: A.B. committed lascivious acts with C.D., a child.

Malicious prosecution: A.B. maliciously caused (attempted to cause) the prosecution of C.D.

Nonsupport: A.B. wrongfully refused (or failed) to support C.D., whom A.B. was under a legal obligation to support.

Obstructing prosecution: A.B. obstructed the prosecution of C.D.

OMVUI: A.B. operated a motor vehicle while under the influence of drugs or intoxicants (having been convicted _____ times previously for the offense).

Operating vehicle without consent: A.B. operated C.D.'s vehicle without C.D.'s consent.

Perjury: A.B. committed perjury by testifying (set out substance of testimony).

Pimping: A.B. solicited C.D. as a patron for a prostitute; A.B. knowingly shared in the earnings of C.D., a prostitute; A.B. knowingly furnished a place to be used for prostitution.

Possession of burglary tools: A.B. possessed burglary tools.

Possession of explosive: A.B. possessed (name substance)

with the intent to use it to commit a public offense.

Possession of offensive weapon: A.B. had unauthorized possession of an offensive weapon, to wit: (describe weapon).

Prostitution: A.B. committed prostitution by offering his/her services for sale (or selling his or her services) as a partner in a sex act; A.B. purchased (or offered to purchase) C.D.'s services as a partner in a sex act.

Public display of offensive matter: A.B. publicly displayed offensive matter, to wit: (describe offensive matter).

Reckless endangerment: A.B. recklessly endangered human life or safety (thereby seriously injurying C.D.).

Reckless use of explosive: A.B. recklessly endangered the property or safety of C.D. by A.B.'s use of (name substance).

Riot: A.B., together with C.D. and E.F., participated in a riot.

Risking a catastrophe: A.B. caused (or risked) a catastrophe by: (state nature of activity).

Robbery: A.B. committed robbery in the _____ degree against C.D.

Sexual abuse: A.B. sexually abused C.D. in the _____ degree.

Solicitation: A.B. solicited C.D. to commit (state substantive offense solicited) (a felony) (an aggravated misdemeanor).

Suborning perjury: A.B. suborned C.D. to commit perjury.

Terrorism: A.B. committed terrorism.

Theft: A.B. committed theft in the _____ degree by taking property belonging to C.D. (set out circumstances such as value of property setting degree of theft).

Traps: A.B. set a trap (or spring gun).

A similar short form indictment may be used for offenses not appearing in this table, provided it complies with the requirements of rule four (4), subsection seven (7), Iowa Rules of Criminal Procedure.

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Sec. 1302. NEW SECTION. TRIAL OF SIMPLE MISDEMEANORS.

Rule 33. SCOPE. The rules set forth in this section shall apply to trials of simple misdemeanors, and attendant proceedings and to appeals from conviction in such cases.

Rule 34. APPLICABILITY OF DISTRICT COURT RULES. Procedures not provided for herein shall be governed by the provisions of these rules which are by their nature applicable relating to trial of indictable offenses, and by the statutes of the state of Iowa.

Rule 35. TO WHOM TRIED. Judicial magistrates and district associate judges must hear, try and determine all simple misdemeanors. District judges may transfer any simple misdemeanors pending before them to the nearest judicial magistrate or district associate judge.

Rule 36. THE CHARGE. Prosecutions for simple misdemeanors must be commenced by filing a subscribed and sworn to complaint with a magistrate or district court clerk or his deputy.

Rule 37. CONTENTS OF THE COMPLAINT. The complaint shall contain:

1. The name of the county and of the court where the complaint is filed.

2. The names of the parties, if the defendants be known, and if not, then such names as may be given them by the complainant.

3. A brief and concise statement of the act or acts constituting the offense, including the time and place of its commission as near as may be, and identifying by number the provision of law alleged to be violated.

4. The provisions of section seven hundred sixty-nine point six (769.6) of the Code shall be applicable to the prosecution before a magistrate of cases within his jurisdiction.

Rule 38. FILING OF COMPLAINT. The magistrate or district court clerk or his deputy must file the complaint and mark thereon the time of filing the same.

Rule 39. WARRANT OF ARREST. Immediately upon filing the complaint, the magistrate or district court clerk or his deputy may issue a warrant of arrest or may issue a citation instead of a warrant for arrest and deliver it to a peace officer.

Rule 40. ARREST. The officer who receives the warrant shall arrest the defendant and bring him before the magistrate without unnecessary delay or serve that citation in the manner provided in chapter seven hundred fifty-three (753) of the Code.

Rule 41. PROSECUTION OF CORPORATIONS. In prosecutions against corporations the corporation may be proceeded against by summons as set forth in division seven (VII) of this chapter.

Rule 42. APPEARANCE OF DEFENDANT. When the defendant first appears, the charge against him must be distinctly read to him, and a copy given him, and he shall be asked whether he is charged under his right name. If the defendant objects that he is wrongly named in the complaint, he must give his right name, and if he refuses to do so, or does not object that he is wrongly named, the magistrate shall make an entry thereof in his docket, and he is thereafter precluded from making any such objection.

Rule 43. RIGHTS OF DEFENDANT. The court shall inform the defendant:

1. Of his right to counsel.

2. Of the circumstances under which he might secure pre-trial release, and of his right to review any conditions imposed on his release.

3. That he is not required to make a statement and that if he does, it may be used against him.

In appropriate cases the court shall appoint counsel for an indigent defendant in accordance with procedures established under rule two (2), subdivision three (3). The magistrate shall allow the defendant reasonable time and opportunity

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to consult with counsel, in the event the defendant expresses a desire to do so.

Rule 44. BAIL. Admission to bail shall be as provided for in division eleven (XI) of this chapter.

Rule 45. PLEA. The defendant shall be required to enter a plea to the complaint, and permissible pleas include those allowed when the defendant is indicted, as set forth in rule eight (8).

Rule 46. TRIAL DATE. Upon a plea other than guilty the magistrate shall set a trial date which shall be at least fifteen days after the plea is entered. He shall notify the prosecuting attorney of the trial date. The defendant shall be entitled to jury trial by filing with the magistrate a written jury demand at least ten days before the time set for trial. Failure to make a jury demand in the manner prescribed herein constitutes a waiver of jury. If demand is made, the action shall be tried by a jury of six members. Upon the request of the defendant, the magistrate may set the date of trial at a time less than fifteen days after a plea other than guilty is entered. The magistrate shall notify the defendant that a request for earlier trial date shall constitute a waiver of jury.

Rule 47. CHANGE OF VENUE. A change of place of trial may be applied for in the manner prescribed in rule ten (10), and the papers transmitted in similar manner as described therein to the judicial officer or clerk of the court to which change is allowed.

Rule 48. BAILIFF OBTAINED. If trial by jury is demanded, the magistrate shall notify the sheriff who shall furnish a bailiff at that time and place to act as officer of the court.

Rule 49. SELECTION OF JURY; TRIAL.

1. SELECTION OF PANEL. If a trial by jury is demanded, the magistrate shall notify the clerk of the district court of the time and place of trial. The clerk shall thereupon

select by lot fourteen names from the district court jury panel. The clerk shall notify these jurors of the time and place for trial.

2. CHALLENGES. Except where inconsistent with this rule, rule seventeen (17) shall apply, but no challenge to the panel is allowed.

3. COMPLETION OF PANEL. If for any reason the panel as chosen by the clerk becomes insufficient to obtain a jury, the magistrate may direct the officer of the court to summon any bystander or others who may be competent, and against whom no sufficient cause of challenge appears, to act as jurors.

4. STRIKES. If, after all challenges and strikes as noted in rule seventeen (17) have been exercised, the remaining jurors number more than six, the parties shall continue to strike jurors in order, commencing with the defendant, until the panel is reduced to six jurors.

5. ALTERNATE JURORS. No alternate jurors shall be chosen.

6. JURY OF SIX. When six jurors appear and are accepted, they shall constitute the jury.

7. OATH OF JURORS. The magistrate must thereupon administer to them the following oath or affirmation: "You do swear (or, you do solemnly affirm, as the case may be) that you will well and truly try the issue between the state of Iowa and the defendant, and a true verdict give according to the law and evidence."

8. TRIAL. The court shall conduct the trial in the order of indictable cases in accordance with rule eighteen (18).

9. RECORD. Upon the trial, the judicial magistrate shall make minutes of the testimony of each witness and append the exhibits or copies thereof. The proceedings upon trial shall not be reported, unless a party provides a reporter at such party's expense. By agreement of the parties the magistrate may cause the proceedings upon trial to be reported electronically. If the proceedings are being electronically

recorded both parties shall be notified in advance of that recording. If the defendant is indigent and requests that the proceedings upon trial be reported, the judicial magistrate shall cause them to be reported by a reporter, or electronically, at public expense. If the proceedings have been reported electronically the recording shall be retained under the jurisdiction of the magistrate and upon request shall be transcribed only by a person designated by the court under the supervision of the magistrate. The transcription shall be provided anyone requesting same upon payment of actual cost of transcription or to an indigent defendant as herein above provided.

Rule 50. JUDGMENT. When the defendant is acquitted, he must be immediately discharged. When the defendant pleads guilty or is convicted, the magistrate may render judgment thereon as the case may require, being governed by the rules prescribed for the trial of indictable offenses, as far as the same are applicable.

Rule 51. COSTS TAXED TO PROSECUTING WITNESS. If the prosecuting witness fails without good cause to appear or give evidence on the trial, and defendant is discharged on account of such failure, the magistrate may, in his discretion, tax the costs of the proceeding against such prosecuting witness and render judgment therefor; and if defendant is acquitted, the magistrate shall, if satisfied that the prosecution is malicious or without probable cause, so tax the costs and render judgment therefor.

Rule 52. SUPPRESSION OF EVIDENCE AND DISPOSITION OF SEIZED PROPERTY. Motions to suppress evidence shall proceed in the manner provided for the trial of indictable offenses, and any property seized dealt with in the manner provided in indictable offenses.

Rule 53. JOINT TRIALS. Unless it shall result in prejudice to a party, the court may order two or more complaints to be tried together if the defendant is the same; or if there

is more than one defendant, but all defendants so joined are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses.

Rule 54. FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE. In a specified simple misdemeanor a court may accept a forfeiture of collateral security in lieu of appearance, as a proper disposition of a case, except for nonscheduled traffic violations. Each judicial district, by action of a majority of its judges, may determine the misdemeanors subject to such disposition and promulgate by rule a list of same and disseminate to all magistrates in the district. A copy of such rule shall be transmitted to the clerk of the supreme court. Prior to termination of the case by forfeiture under this rule, the defendant must execute a written request for same. Unless vacated upon application within thirty days of the forfeiture, such forfeiture shall constitute a conviction in satisfaction

Rule 55. APPEALS.

1. NOTICE OF APPEAL. An appeal may be taken by the plaintiff only upon a finding of invalidity of an ordinance or statute. In all other cases, an appeal may only be taken by the defendant and only upon a judgment of conviction. Execution of the 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. The defendant may take an appeal, by giving notice orally to the magistrate that he appeals, or by delivering to the magistrate not later than ten days thereafter, a written notice of his appeal, and in either case the magistrate must make an entry on its docket of the giving of such notice. Payment of fine or service of a sentence of imprisonment does not waive the right to appeal, nor render the appeal moot. When an appeal is taken, the magistrate shall forward to the appropriate district court clerk a copy of the docket entries

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in his court, together with copies of the complaint, warrant, motions, pleadings, his minutes of the witness' testimony and the exhibits or copies thereof and all other papers in the case. A district judge shall promptly hear the appeal upon the record thus filed without further evidence. Within ten 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 a part of the record, a transcript of the official report, if any, and, in the event the report was made electronically, the tape or other medium on which the proceedings were preserved. If the original action was tried before a district judge acting as a judicial magistrate, the appeal shall be to a different district judge. The judge shall decide the appeal without regard to technicalities or defects. Judgment shall be rendered as though the case were being originally tried.

2. BAIL.

a. ADMISSION TO BAIL. Admission to bail shall be as provided for in division eleven (XI) of this chapter. Execution of the judgment shall not be stayed unless the defendant is admitted to bail.

b. OFFICERS AUTHORIZED TO TAKE BAIL. Bail may be taken by the magistrate who rendered the judgment, or by any magistrate in the county of the district court of that county. The magistrate taking bail shall remit it to the clerk of the district court who shall give receipt therefor.

3. COUNSEL. In appropriate cases, the magistrate shall appoint counsel on appeal.

4. APPEAL TO SUPREME COURT. After appeal to a district judge in a nonindictable case, either party may appeal from the judgment of the district judge to the supreme court in the same manner as from a judgment in a prosecution by indictment, and the defendant may be admitted to bail in like manner, and similar proceedings shall be had on the appeal in all respects, as far as applicable. The same proceedings

shall be had to carry into effect the judgment of the supreme court upon the appeal as if it had been taken from a judgment prosecuted by indictment.

Rule 56. NEW TRIAL. The magistrate, on motion of a defendant, may grant a new trial to him if required in the interest of justice. A motion for a new trial based on the ground of newly discovered evidence may be made only before or within thirty days after final judgment. A motion for a new trial based on any other grounds shall be made within seven days after a finding of guilty or within such further time as the court may fix during the seven-day period.

Rule 57. CORRECTION OR REDUCTION OF SENTENCE. The magistrate may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence. The magistrate may reduce a sentence within ten days after the sentence is imposed or within ten days after the receipt by the magistrate of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within ten days after entry of any order or judgment of the supreme court denying review of, or having the effect of upholding, a judgment of conviction. The court may also reduce a sentence upon revocation of probation as provided by law.

APPENDIX OF FORMS

(See Rule 31)

FORM A

COMPLAINT

State of Iowa Before (Judge, Magistrate) _____

County of _____ (insert name of lower court judge or magistrate)

State of Iowa

vs.

A_____ B_____, Defendant

The defendant is accused of the crime of (here name the offense and provide numerical designation), in that the defen-

dant on the _____ day of _____, _____, at the _____ (here locate the city, or township where the offense occurred), in _____ county, did (state the acts or omissions constituting the offense).

/s/_____

FORM B

CONSENT TO FORFEITURE OF COLLATERAL
AS DISPOSITION OF MISDEMEANOR

State of Iowa
County of _____

I, the undersigned, agree to have the amount of $_____ forfeited as a fine and my case terminated. I do this with the following understanding:

1. I have been charged with the offense of _____ _____ (here name the offense and provide numerical designation).

2. I understand my rights, including my right to trial before the court on such charge, and voluntarily waive same, understanding that forfeiture of the aforesaid amount terminates my right to a trial and constitutes a conviction of the offense charged.

_____
(Signature of defendant)

FORM C

NOTICE OF APPEAL TO A DISTRICT COURT JUDGE
FROM A JUDGMENT OR ORDER

State of Iowa
County of _____
State of Iowa
vs. Notice of Appeal
C_____ D_____, Defendant

Notice is hereby given that C_____ D_____ _____, defendant above named, hereby appeals to a district court judge for _____ County (from the final judgment) (from the order) entered in this action on the _____

day of _____, _____.

/s/_____

_____

(Address)

Attorney for C_____ D_____

FORM D

BAIL BOND ON APPEAL TO DISTRICT COURT

State of Iowa

County of _____

A_____ B_____ having been convicted before C_____ D_____, a magistrate of said county, of the crime of (here designate it generally as in the information), by a judgment rendered on the _____ day of _____, A.D. _____, and having appealed from said judgment to a district court judge of said county:

We, A_____ B_____, and E_____ F_____, hereby undertake that the said A_____ B_____ will appear in the district court of said county on the _____ day of _____ (month), 19___ (year), (which date shall be not more than twenty days after perfection of the undertaking), and submit to the judgment of said court, and not depart without leave of the same, or that we (or I, as the case may be) will pay to the state of Iowa the sum of _____ dollars (the amount of bail fixed).

A_____ B_____

E_____ F_____

Accepted by me, at _____, in the township of _____, this _____ day of _____, A.D. _____.

C_____ D_____

Judicial Magistrate.

DIVISION XIV

APPEALS IN THE SUPREME COURT

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Section 1401. NEW SECTION. DEFINITION OF APPEAL AND DISCRETIONARY REVIEW. For the purposes of this division, unless the context otherwise requires:

1. "Appeal" is the right of both the defendant and the state to have specified actions of the lower court considered by the supreme court.

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.

Sec. 1402. NEW SECTION. 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 court below.

Sec. 1403. NEW SECTION. APPEALS IN CASES INVOLVING MORE THAN ONE DEFENDANT. When defendants are tried jointly, they may seek discretionary review or may appeal separately or they may join. The supreme court may, in the interest of justice, consolidate appeals or applications for discretionary review.

Sec. 1404. NEW SECTION. PERFECTION OF AN APPEAL AND APPLICATION FOR DISCRETIONARY REVIEW. An appeal is perfected by filing a written notice within sixty days after judgment or order with the clerk of the court wherein the judgment or order was issued. Application for discretionary review is made by filing a written notice within ten days after judgment or order with the clerk of the court wherein the judgment or order was issued.

Sec. 1405. NEW SECTION. THE STATE AS APPELLANT OR APPLICANT. Appeal is granted the state from:

1. An order dismissing an indictment, information, or any count thereof.

2. A judgment for the defendant on a motion to the indictment or the information.

3. An order arresting judgment or granting new trial.

Discretionary review may be available in the following cases:

1. An order quashing an arrest or search warrant.

2. An order suppressing or admitting evidence.

3. An order granting or denying a change of venue.

4. A final judgment or order raising a question of law important to the judiciary and the profession.

Sec. 1406. NEW SECTION. THE DEFENDANT AS APPELLANT OR APPLICANT. Appeal is granted the defendant from:

1. A final judgment of sentence, except in case of simple misdemeanor and ordinance violation convictions.

2. An order for the commitment of the defendant for insanity or drug addiction, or an order for the indeterminate commitment of the defendant as a mentally disordered sex offender.

Discretionary review may be available in the following cases:

1. An order suppressing or admitting evidence.

2. An order granting or denying a change of venue.

3. An order denying probation.

4. Simple misdemeanor and ordinance violation convictions.

5. An order raising a question of law important to the judiciary and the profession.

Sec. 1407. NEW SECTION. DUTY OF CLERK WHEN APPEAL IS PERFECTED OR APPLICATION MADE. When an appeal or an

SENATE FILE 85

S-3111

Amend Senate File 85, page 193, line 32, by inserting after the word "general" the words "and the clerk of the supreme court."

S-3111 FILED FEBRUARY 14, 1975 adopted 2-18-75 BY COMMITTEE ON JUDICIARY GENE W. GLENN, CHAIRMAN

supreme court and the attorney general a transcript of all

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record entries relevant to the appeal or application, together with copies of all papers in the case on file in his office, except those returned by the examining magistrate on the preliminary examination, all duly certified under seal of his court.

Sec. 1408. NEW SECTION. 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.

Sec. 1409. NEW SECTION. INDIGENT'S RIGHT TO TRANSCRIPT ON APPEAL. If a defendant in a criminal cause has perfected an appeal from a judgment against him and shall satisfy the judge of the lower court that he is indigent, such judge may order the transcript made at the expense of the county where the defendant was tried. When an attorney of record is representing such indigent, said attorney shall make application to the lower court for the transcript.

Sec. 1410. NEW SECTION. INDIGENT'S APPLICATION FOR TRANSCRIPT IN OTHER CASES. If a defendant in a criminal cause has been granted discretionary review from an action of a lower court by the supreme court and the supreme court deems a transcript or portions thereof are necessary to proper review of the question or questions raised, the judge of the lower court shall order the transcript made at the expense of the county where the defendant was tried, if the defendant is indigent.

Sec. 1411. NEW SECTION. INDIGENT'S RIGHT TO COUNSEL. An indigent defendant is entitled to appointed counsel on the appeal of all indictable offenses. Such appointment is subject to the rules and regulations which are or may be

promulgated by the supreme court of the state.

Sec. 1412. NEW SECTION. 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.

Sec. 1413. NEW SECTION. 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.

Sec. 1414. NEW SECTION. CERTIFICATE OF RELEASE. When an appeal is taken by the defendant and he is released, the clerk of the district court must give to the defendant or his 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 he acted with his return thereon.

Sec. 1415. NEW SECTION. APPEALS AND APPLICATIONS, WHEN DOCKETED, WHEN DETERMINED. When a proper appeal is perfected in a criminal case and the clerk's transcript of the record as required by section one thousand four hundred seven (1407) of this division is filed in the supreme court, the cause shall be docketed. Such causes shall take precedence over other business and the supreme court shall hear and determine appeals in criminal actions at the earliest time it may be done considering the rights of parties and proper administration of justice. A similar rule shall apply to applications for discretionary review.

Sec. 1416. NEW SECTION. FAILURE OF CLERK TO TRANSMIT PAPERS AS REQUIRED. Failure of the clerk of the district court to transmit all the papers as required in section one thousand four hundred seven (1407) of this division shall not prejudice the rights of the parties.

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Sec. 1417. NEW SECTION. PERSONAL APPEARANCE OF THE DEFENDANT. The personal appearance of the defendant in the supreme court on the trial of an appeal, or upon the hearing of a matter of discretionary review, is in no case necessary.

Sec. 1418. NEW SECTION. CLOSING ARGUMENT. The defendant is entitled to close the argument.

Sec. 1419. NEW SECTION. HEARING IN THE SUPREME COURT, RULES OF PROCEDURE. The record and case shall be presented to the supreme court as provided by its rules; and the provisions of law in civil procedure relating to the filing of decisions and opinions of the supreme court shall apply in such cases.

Sec. 1420. NEW SECTION. 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 supreme court. The supreme court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the lower court judgment. It may also dismiss the appeal or application if it determines that there has been no substantial miscarriage of justice, and no violation of the rights of the accused, and that the arguments do not present definite grounds for a hearing. The supreme court may also order a new trial, or reduce the punishment, but cannot increase it.

Sec. 1421. NEW SECTION. COSTS TO THE SUCCESSFUL DEFENDANT. If on appeal or application by the defendant, the judgment of the trial court is reversed or modified in his favor, he shall recover the cost of printing abstract and briefs (to a maximum of one dollar per page) to be paid by the county wherein the trial occurred.

Sec. 1422. NEW SECTION. REVERSAL--EFFECT. If a judgment against the defendant is reversed, such reversal shall be deemed an order for a new trial, unless the supreme court shall direct a different disposition. In reversing the case,

the supreme court may direct that the defendant be discharged and his bail exonerated, or if money is deposited instead, that it be returned to him.

Sec. 1423. NEW SECTION. AFFIRMANCE--EFFECT. On a judgment of affirmance against the defendant, the original judgment shall be carried into execution as the supreme court shall direct.

Sec. 1424. NEW SECTION. DECISION RECORDED AND TRANSMITTED. The decision of the supreme court with any opinion filed or judgment rendered must be recorded by its clerk. After the expiration of the period allowed for a rehearing, or as ordered by the court or provided by its rules, a certified copy of the decision and opinion shall be transmitted to the clerk of the trial court, filed and entered of record by him.

Sec. 1425. NEW SECTION. JURISDICTION OF APPELLATE COURT CEASES AFTER JUDGMENT. The jurisdiction of the supreme court shall cease after the certified copy of the decision and opinion is transmitted to the clerk of the trial court. All proceedings for executing the judgment shall be had in the trial court or by its clerk.

Sec. 1426. NEW SECTION. JUDGMENT ENFORCED. Unless some proceeding in the district court is directed, a copy of the judgment of the trial court and decision on appeal or review, or of the judgment and decision on appeal or review certified by the clerk of the trial court shall be delivered to the sheriff or proper officer as an execution. He shall be authorized to execute the judgment of the court, or take any legal measures required to bring the action to a conclusion.

Sec. 1427. NEW SECTION. 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 supreme court, shall have the period of his former confinement deducted from the period of confinement fixed on the last verdict of conviction by the district court.

DIVISION XV

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COSTS OF PROCEEDINGS AND COMPENSATION OF
GRAND JURY CLERKS, ATTORNEYS, WITNESSES AND OTHERS

Section 1501. NEW SECTION. COSTS PAYABLE BY STATE IN SPECIAL CASES. All costs and fees, including any award of attorney fees to a court-appointed attorney, incurred in any parole revocation proceedings or in any criminal case brought against an inmate of any state institution for a crime committed while confined in such institution, or for a crime committed by such inmate while placed outside the walls or confines of the institution under the control and direction of a warden, supervisor, officer, or employee thereof, or for a crime committed by such inmate during an escape or other unauthorized departure from such institution or from the control of a warden, supervisor, officer, or employee thereof, wherever the said inmate may have been placed by authorized personnel thereof, shall be paid out of the state treasury from the general fund in case the prosecution fails, or where such costs and fees, including an award of attorney fees to a court-appointed attorney, cannot be made from the person liable to pay the same, the facts being certified by the clerk of the district court under his seal of office to the state comptroller, including a statement of the amount of fees or costs incurred, such statement to be approved by the presiding judge in writing appended thereto or endorsed thereon.

Sec. 1502. NEW SECTION. 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 for time actually and necessarily employed in the performance of the duties prescribed in rule three (3), rules of criminal procedure.

Sec. 1503. NEW SECTION. WITNESSES CALLED TO COUNTY ATTORNEY INVESTIGATIONS. Witnesses subpoenaed by the county attorney pursuant to rule five (5), rules of criminal procedure, 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.

Sec. 1504. NEW SECTION. SPECIAL WITNESSES FOR INDIGENTS. Witnesses secured for indigent defendants under rule nineteen (19), rules of criminal procedure, must file a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant.

Sec. 1505. NEW SECTION. EXPERT WITNESSES FOR STATE AND DEFENSE. Notwithstanding the provisions of section six hundred twenty-two point seventy-two (622.72) of the Code, reasonable compensation as determined by the court shall be awarded expert witnesses, expert witnesses for indigents referred to in section one thousand five hundred four (1504) of this division, or called by the state in criminal cases.

Sec. 1506. NEW SECTION. 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.

Sec. 1507. NEW SECTION. FEES TO ATTORNEYS. An attorney appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by the district court judge, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. Such attorney need not follow the case into another county or into the supreme court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but

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if he does so his fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class A felony cases, two may be authorized.

Sec. 1508. NEW SECTION. SHERIFF'S FEES. For delivering prisoners under the change of venue provisions of rule ten (10), rules of criminal procedure, or transferring prisoners under section four hundred twenty-two (422) of this chapter, sheriffs are entitled to the same fees as are allowed for the conveyance of convicts to the penitentiary.

DIVISION XVI

DOUBLE JEOPARDY

Section 1601. NEW SECTION. EFFECT OF FORMER PROSECUTION.

1. A prosecution is barred if the defendant was formerly prosecuted for the same crime, based upon the same facts, if such former prosecution:

a. Resulted in either a conviction or an acquittal or in a determination that the evidence was insufficient to warrant a conviction; or

b. Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or

c. Was terminated without the consent of the defendant after the defendant had been placed in jeopardy, except where such termination shall have occurred by reason of: The illness or death of an indispensable party; or the inability of the jury to agree; or the impossibility of the jury arriving at a verdict. A defendant is in jeopardy when he is put on trial in a court of competent jurisdiction upon an indictment, information or complaint sufficient in form and substance to sustain a conviction, and in the case of trial by jury, when the jury has been impaneled and sworn, or where the case is tried to the court without a jury, when the court has begun to hear evidence.

A conviction of an included offense is an acquittal of the offense charged.

2. A prosecution is barred if the defendant was formerly prosecuted for a different crime, or for the same crime based upon different facts, if such former prosecution had any of the following results:

a. Either a conviction or an acquittal and the subsequent prosecution is for a crime or crimes of which evidence has been admitted in the former prosecution and which might have been included as other counts in the complaint, indictment or information filed in such former prosecution or upon which the state then might have elected to rely; or was for a crime which involves the same conduct, unless each prosecution requires proof of a fact not required in the other prosecution, or the crime was not consummated when the former trial began.

b. Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution.

c. Was terminated without the consent of the defendant after the defendant had been placed in jeopardy, except where such termination shall have occurred by reason of: The illness or death of an indispensable party; or the inability of the jury to agree; or the impossibility of the jury arriving at a verdict, and the subsequent prosecution is for an offense of which the defendant could have been convicted if the former prosecution had not been terminated improperly.

3. A prosecution is barred if the defendant was formerly prosecuted in a district court of the United States or in a court of general jurisdiction of a sister state or in the district court of this state for a crime which is within the concurrent jurisdiction of this state, if such former prosecution had either of the following results:

a. Either a conviction or an acquittal, and the subsequent prosecution is for the same conduct, unless each prosecution

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requires proof of a fact not required in the other prosecution, or the offense was not consummated when the former trial began.

b. Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the prosecution in this state.

Sec. 1602. NEW SECTION. 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 vacated shall the defendant be subsequently prosecuted for a higher degree of the crime for which he was originally convicted.

Sec. 1603. NEW SECTION. 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 eighteen (18), rules of criminal procedure, shall be reversed, and the defendant shall first offer his evidence in support of his defense.

DIVISION XVII

SPECIAL POWERS OF POLICE,

GOVERNOR, AND ATTORNEY GENERAL

Section 1701. NEW SECTION. 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 him; 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.

Sec. 1702. NEW SECTION. 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.

DIVISION XVIII

INTERSTATE EXTRADITION COMPACT

Section 1801. NEW SECTION. The interstate extradition compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE EXTRADITION COMPACT

The contracting states solemnly agree that:

Sec. 1802. NEW SECTION. The states which are parties to this agreement find that existing extradition procedures are cumbersome, costly and frequently result in unnecessary delay in the extradition of fugitives. They find further that the provisions of the United States Constitution and United States Code relating to extradition are meant to

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facilitate the return of fugitives; do not prescribe the exclusive means for return of fugitives; and do not prevent the states from establishing other procedures for this purpose.

Sec. 1803. NEW SECTION. As used in this compact, unless the context clearly requires otherwise:

1. "State" means any 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.

2. "Demanding state" means the state in which a crime has been committed and where a charge has been filed against a fugitive whose return for trial is sought.

3. "Asylum state" means the state in which a person for whom the warrant was issued has been found or arrested and from which his return to the demanding state is sought.

4. "Fugitive" means any person who is charged with a crime in the demanding state, or any person who has been convicted of a crime in the demanding state and has escaped from confinement or has broken the terms of his bail, probation or parole, and is no longer within the demanding state, whether his leaving the demanding state was voluntary or involuntary. For purposes of this division the term "fugitive" further includes a person in the asylum state charged with committing a crime in the demanding state by the doing of an intentional act outside the demanding state which resulted in such crime, as set forth in section one thousand eight hundred fifteen (1815) of this division.

5. "Local prosecuting authority" means the chief prosecuting attorney or his designee, of the governmental unit of the demanding state which has jurisdiction over the crime committed by the fugitive. When the return to the demanding state is required of a person who has been convicted of a crime in the demanding state and the fugitive has escaped from confinement or broken the terms of his bail, probation or parole, the term "local prosecuting authority" includes

the chief prosecuting attorney of the county in which the offense was committed, the parole board, and in the case of escapes the warden of the institution or the sheriff of the county from which the escape was made, and in such cases these officials may make demand for return of the fugitive in accordance with the provisions of this compact.

6. "Chief law enforcement officer" means county sheriff, chief of police or other chief law enforcement officer in the local governmental unit wherein the fugitive is located, and when the fugitive is confined in a penitentiary or reformatory, it includes the warden or chief administrative officer of that institution.

Sec. 1804. NEW SECTION. The local prosecuting authority of the demanding state shall have the authority to issue a demand for the return of a fugitive. The demand shall be made to a chief law enforcement officer of the local governmental unit in the asylum state where the accused has been found.

Sec. 1805. NEW SECTION. Demand for the extradition of a fugitive under this division shall be in writing or by other official communication setting forth the crime with which the fugitive is charged, or that the fugitive has escaped confinement or broken the terms of his bail, probation, or parole. Said demand shall allege that a crime was committed in the demanding state and that the person sought is a fugitive within the meaning of this compact.

Sec. 1806. NEW SECTION. A chief law enforcement officer of the local governmental unit in the asylum state who receives the demand is authorized to cause the arrest of the fugitive in accordance with the laws of the asylum state.

Sec. 1807. NEW SECTION. When an arrest has been made the fugitive shall be taken for an appearance before a judge of court of record who shall inform him of the demand made for his surrender and of the crime with which he is charged, or other reason for the demand as set forth in section one

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thousand eight hundred fifteen (1815) of this division. Said judge shall apprise the fugitive of his legal rights and shall advise said fugitive of his right to apply for a writ of habeas corpus.

Sec. 1808. NEW SECTION. If, at the fugitive's appearance, it appears that the person held is the person charged with having committed the crime alleged or has escaped confinement or broken the terms of his bail, probation, or parole and, except in cases arising under section one thousand eight hundred fifteen (1815) of this division, that he has fled from justice, the judge or magistrate before whom the fugitive is taken must, by warrant reciting the accusation, commit him to jail. Such commitment shall occur unless the accused give bail as provided in section one thousand eight hundred fourteen (1814) of this division or is otherwise legally discharged. When the accused is confined pursuant to this section, said confinement shall be for the time specified in the warrant, but not exceeding fifteen days, as will enable the arrest of the fugitive to be made under a warrant issued by the authorities of the state having jurisdiction of the crime. If a writ of habeas corpus is applied for, the time established in this section shall be extended until such writ is disposed of.

Sec. 1809. NEW SECTION. The local prosecuting authority of the demanding state shall cause a warrant to be issued to an agent, commanding him to receive the fugitive when delivered to him and convey him to the proper officer of the local jurisdiction in the demanding state.

Sec. 1810. NEW SECTION. Said designated agent of the demanding state may at all times enter the asylum state for the purpose of making demand for the surrender of the fugitive. Upon demand and proof of authority, the fugitive shall be released and surrendered to the agent's custody subject to the provisions of sections one thousand eight hundred eleven (1811) and one thousand eight hundred twelve (1812) of this

division unless a petition for habeas corpus has been applied for and is pending before the court. All requirements to obtain extradition other than provided in this compact are hereby waived on the part of the state party hereto as to such fugitive.

Sec. 1811. NEW SECTION. If a criminal prosecution has been instituted against the fugitive under the laws of the asylum state and is still pending, the prosecuting authority of the asylum state in its discretion may either surrender him on demand or hold him until he has been tried and discharged or convicted and punished in the asylum state.

Sec. 1812. NEW SECTION. When it is desired to have returned to the demanding state a person sentenced in the asylum state with a crime, and such person is imprisoned, the governor of the asylum state may agree with the governor of the demanding state for the extradition of such person before the conclusion of his term or sentence upon condition that such person be returned to the asylum state as soon as the prosecution in the demanding state is terminated.

Sec. 1813. NEW SECTION. The guilt or innocence of the fugitive as to the crime of which he is charged is not reviewable by any official of the asylum state or in any proceeding in the asylum state after the demand for extradition. When a habeas corpus hearing is held pursuant to section one thousand eight hundred five (1805) of this division, the judge shall cause to be presented to the fugitive a certified copy of the indictment found or information from the state having jurisdiction of the crime, or a copy of any warrant which was issued thereupon; or a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the local prosecuting authority of the demanding state that the fugitive has escaped from confinement or has broken the terms of his bail, probation or parole. Notice of such habeas corpus hearing including the time and place thereof shall be given to the local

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prosecuting authority of the demanding state.

Sec. 1814. NEW SECTION. Unless the crime with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the demanding state, a judge or magistrate in the asylum state may admit the person arrested to bail by bond with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender. In the event of a violation of the conditions of said bond, forfeiture thereof and recovery thereon may be had as in the case of appearance bonds given by accused persons in criminal proceedings in the asylum state.

Sec. 1815. NEW SECTION. A chief law enforcement officer of the local governmental unit in the asylum state may surrender, on demand of the local prosecuting authority of the demanding state, any person in the asylum state charged in the demanding state in the manner provided in section one thousand eight hundred five (1805) of this division with committing an act in the asylum state, or in a third state, intentionally resulting in a crime in the demanding state. The provisions of this compact not otherwise inconsistent shall apply to such cases, even though the accused was not in the demanding state at the time of the commission of the crime, and has not fled therefrom.

Sec. 1816. NEW SECTION. The expenses incurred in extradition shall be assessed to the governmental unit of the demanding state seeking the return of the fugitive, but this provision shall not be construed to alter or affect any internal arrangements between a party state and its subdivisions as to the payment of costs or responsibilities therefor. These expenses shall include fees paid to the officers of the asylum state and all necessary and actual traveling expenses incurred in returning the prisoner.

Sec. 1817. NEW SECTION. Each state party to this compact

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 compact, and who shall provide, within and without the state, information necessary to the effective operation of this compact.

Sec. 1818. NEW SECTION. The governor of this state shall appoint an administrator of interstate extradition to serve in such capacity for a period and under terms determined by the governor. Said administrator shall fulfill the duties set forth in section one thousand eight hundred seventeen (1817) of this division and such other necessary duties as may be required for the administration of this compact.

Sec. 1819. NEW SECTION. This compact 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 compact 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 at the time such withdrawal takes effect.

Sec. 1820. NEW SECTION. This compact provides an alternate procedure to the uniform criminal extradition act, which remains in full force and effect; a state seeking return of a fugitive may proceed under this compact, or under the uniform criminal extradition act. Where another state seeks return of a fugitive under this compact, the governor of this state may intervene at any time prior to surrender of the fugitive and require the proceedings to be stayed subject to investigation and appropriate orders relating to custody of the fugitive by the governor.

Sec. 1821. NEW SECTION. This compact shall be liberally construed so as to effectuate its purposes. 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 party state or of the

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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 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 party hereto, 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.

Sec. 1822. NEW SECTION. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the interstate extradition compact and to cooperate with one another and with other party states in enforcing the compact and effectuating its purpose.

Sec. 1823. NEW SECTION. Copies of this division 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.

Sec. 1824. NEW SECTION. This compact may be cited as the interstate extradition compact.

DIVISION XIX

UNIFORM ACT TO SECURE WITNESSES FROM WITHOUT THE STATE

Section 1901. NEW SECTION. 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 his presence will be required for a number of days which shall be specified in such certification.

3. The certification described in subsection two (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 three (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 two (2) and three (3) of this section are complied with, he 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.

Sec. 1902. NEW SECTION. 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

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facts and specifying the number of days the witness will be required.

Sec. 1903. NEW SECTION. FEES AND ENFORCEMENT OF ORDER. A witness named in an order described in section one thousand nine hundred two (1902) of this division shall be entitled to ten cents per mile for each mile traveled by the most direct route to and from the proceedings he is required to attend, and shall also be entitled to ten dollars per day for each day spent in such travel or in attending the proceedings as a witness. Such amounts shall, upon proper claim being made, be paid from the court expense fund of the county.

If such witness fails without good cause to attend and testify as directed by such order he shall forfeit his right to receive mileage and per diem, and shall be guilty of contempt of court for which he may be punished accordingly.

Sec. 1904. NEW SECTION. EXEMPTIONS; ARREST, SERVICE OF PROCESS. If a person comes into this state in obedience to an order directing him to attend and testify in this state, he 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 his entrance into this state under the order.

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, he 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 his entrance into this state pursuant to the order to testify.

Sec. 1905. NEW SECTION. STATE. The word "state" shall include any state or territory of the United States and the District of Columbia.

CHAPTER 3

DIVISION I

JUDGMENT AND SENTENCING PROCEDURES

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the "Iowa Corrections Code".

Sec. 102. NEW SECTION. JUDGMENT OF CONVICTION--TIME FOR PRONOUNCEMENT. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court shall fix a time for pronouncing judgment which shall be within a reasonable time, but not less than eight days after the plea is entered or the verdict is rendered, unless the defendant consents to a shorter time.

Sec. 103. NEW SECTION. PRESENTENCE INVESTIGATION. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of any public offense may be rendered, the court shall receive from the state 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, and, if the offense is a felony, shall order that a presentence investigation be made.

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 or suspension of sentence and probation. The investigation shall be made by the probation and parole service, or by another appropriate agency as determined by the court.

Sec. 104. NEW SECTION. REPORT OF INVESTIGATION. Whenever a presentence investigation is ordered by the court, the investigator shall promptly inquire into: the defendant's characteristics, family and financial circumstances, needs, and potentialities; his criminal record and social history; the circumstances of the offense; the time the defendant has been in detention; and the harm to the victim, his immediate family, and the community. All local and state mental and correctional institutions, courts, and police agencies shall

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furnish to the investigator on request the defendant's crimin record and other relevant information. With the approval of the court, a physical examination of the defendant may be ordered, or the defendant may be committed to a psychiatric facility for an evaluation of his personality and mental health. The results of any such examination shall be included in the report of the investigator.

Sec. 105. NEW SECTION. REPORT CONFIDENTIAL. The court may, in its discretion, make the presentence investigation report or parts of it available to the defendant, or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of any medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. Such reports shall be part of the record but shall be sealed and opened only on order of the court. In any case where the defendant is committed to the custody of the division of adult corrections, a copy of the presentence investigation report shall be sent to the director at the time of commitment.

Sec. 106. NEW SECTION. PRONOUNCING JUDGMENT AND SENTENCE. After receiving and examining all pertinent information, including the presentence investigation report, if any, the court shall consider the following sentencing options in the order presented below. 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 seven hundred two (702) of this chapter, the court may defer judgment and sentence for

an indefinite period in accordance with division seven (VII) of this chapter.

2. If the defendant is neither a dangerous offender nor an incorrigible offender as defined by sections two hundred seven (207) and two hundred nine (209) of this chapter, 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 division seven (VII) of this chapter.

4. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both.

Sec. 107. NEW SECTION. 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 under which the defendant is sentenced.

Sec. 108. NEW SECTION. COMMITMENT. In imposing a sentence of confinement for more than ninety days, the court shall commit the defendant to the custody of the director of the division of adult corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of such commitment. The court shall make such order as is appropriate for the temporary custody of the defendant pending his transfer to the custody of the director.

Sec. 109. NEW SECTION. COMPUTATION OF TIME SERVED. The total number of days of confinement based in whole or in part on the charge for which the defendant is being sentenced shall be computed and credited by the court on any sentence of confinement, and a statement of the days so credited shall be incorporated into the sentence.

DIVISION II

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FELONIES

Section 201. NEW SECTION. CLASS A FELONY. 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 division of adult corrections for the rest of his life. Nothing in this chapter pertaining to deferred judgment, suspended sentence or probation shall apply to a class A felony, and no person convicted of a class A felony shall be released on parole unless the governor commutes the sentence to a term of years.

Sec. 202. NEW SECTION. RECORD REVIEWED. At any time before a person has served five years of a life sentence, the board of parole shall interview him and review his record. If, in the opinion of the board, he should be considered for release on parole, the board shall recommend to the governor that his sentence be commuted to a term of years. If his sentence is so commuted, he shall be eligible for parole as provided in division six (VI) of this chapter.

Sec. 203. NEW SECTION. INDETERMINATE SENTENCE. When a judgment of conviction of a felony other than a class A felony is entered against any person, the court, in imposing a sentence of confinement, shall commit him into the custody of the director of the division of adult corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by section two hundred ten (210) of this division.

Sec. 204. NEW SECTION. RECONSIDERATION OF SENTENCE. For a period of fifty days from the date when a person convicted of a felony, other than a class A felony, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the commissioner of social services, may order him 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 court's final order in any such proceeding shall be delivered to the defendant personally or by certified mail. Such action is discretionary with the court, and its decision to take such action or not to take such action is not subject to appeal. The provisions of this section notwithstanding, for the purposes of appeal, a judgment of conviction of felony is a final judgment when pronounced.

Sec. 205. NEW SECTION. PLACE OF CONFINEMENT. The director of the division of adult 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 him from one institution to another during his period of confinement.

Sec. 206. NEW SECTION. RELEASE ON PAROLE. A person who has been committed to the custody of the director of the division of adult corrections shall remain in such custody until his release by the order of the board of parole, in accordance with the law governing paroles, or until the maximum term of his confinement, as fixed by law, has been completed.

Sec. 207. NEW SECTION. DANGEROUS OFFENDER. The following are dangerous offenders:

1. Any person convicted of a class B felony.

2. A person convicted of a class C or a class D felony; whose conduct, including but not limited to his conduct in committing the offense of which he stands convicted, is characterized by a pattern of repetitive or compulsive behavior which endangers the life or physical well-being of others, or by aggressive behavior with heedless indifference to consequences, and who is found to have a personality dangerously predisposed to physical violence.

Sec. 208. NEW SECTION. CLASSIFICATION OF DANGEROUS OFFENDERS. No person shall be classified as a dangerous offender under section two hundred six (206), subsection two (2), of this division unless he has first been referred to

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the Iowa security medical facility for examination, and a report has been received from such facility.

Sec. 209. NEW SECTION. INCORRIGIBLE OFFENDERS. An incorrigible 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 he is convicted, it is so classified at the time of his conviction.

Sec. 210. NEW SECTION. MAXIMUM TERMS OF IMPRISONMENT. 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:

1. A dangerous offender shall be confined for no more than twenty-five years.

2. An incorrigible offender shall be confined for no more than fifteen years.

3. A class C felon, not a dangerous or incorrigible offender, shall be confined for no more than ten years, and in addition may be sentenced to a fine of not more than five thousand dollars.

4. A class D felon, not a dangerous or incorrigible offender, shall be confined for no more than five years, and in addition may be sentenced to a fine of not more than one thousand dollars.

Sec. 211. NEW SECTION. APPLICATION FOR COMMITMENT. Whenever the commissioner of social services has reason to believe that a person who has been committed to the custody of the department as a result of conviction of a public offense is suffering from a personality disorder or mental illness indicating an abnormal propensity to do violence to others or to commit sexual offenses with children, he shall apply to the district court of the county in which such person is confined for an order continuing him in the custody of the

department of social services. The petition shall state that such person is suffering from a personality disorder or mental illness which indicates an abnormal propensity to do violence to others or to commit sexual offenses with children, and that his own best interest or the interest of society require his continued confinement. The petition shall have appended a detailed evaluation of his personality and mental health by the security medical facility or other psychiatric facility. The person against whom the application is made shall be represented by counsel, and may present evidence to the court. The attorney general shall represent the commissioner in the matter.

Sec. 212. NEW SECTION. COMMITMENT. If the court, after considering the past history of such person, his conduct while in confinement, and all available medical and other expert evidence, finds that the allegations of the petition are true, it shall order the commitment. The person so committed shall be provided treatment, and shall be subjected only to such restraints as may be reasonable to protect others and himself from harm, and to assure his continued treatment. Confinement, if necessary, shall be in a mental health institution or a security medical facility. Upon the recommmendation of the chief officer of such institution, he may be released under the supervision of the department of social services, with the department providing such aid, supervision, and continued treatment as may be necessary; or he may be released to a hospital or other institution not administered by the department of social services, either in or outside the state. Any such commitment shall be for a period of five years, at the expiration of which the commissioner may apply to the district court of the county in which such person is being kept for a continuation of such commitment on the same conditions as the original commitment.

DIVISION III

MISDEMEANORS

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Section 301. NEW SECTION. SENTENCE FOR MISDEMEANOR. When a person is convicted of a misdemeanor and a specific penalty is not provided for, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

1. For an aggravated misdemeanor, imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both.

2. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

3. For a simple misdemeanor, imprisonment not to exceed thirty days, or a fine not to exceed one hundred dollars.

Sec. 302. NEW SECTION. RECONSIDERATION OF 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 him 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 court's final order in any such proceeding shall be delivered to the defendant personally or by certified mail. Such action is discretionary with the court and its decision to take such action or not to take such action is not subject to appeal. The provisions of this section notwithstanding, for the purposes of appeal a judgment of conviction is a final judgment when pronounced.

Sec. 303. NEW SECTION. WORK-RELEASE. The court may direct that a prisoner, sentenced to confinement for ninety days or less, be released from custody during specified hours, as provided by sections three hundred fifty-six point twenty-six (356.26) through three hundred fifty-six point thirty-six (356.36) of the Code.

Sec. 304. NEW SECTION. PLACE OF CONFINEMENT. All persons sentenced to confinement for a period of ninety days or less

shall be confined in a place to be furnished by the county where the conviction was had. All persons sentenced to confinement for a period of more than ninety days shall be committed to the custody of the director of the division of adult corrections to be confined in a place to be designated by the director and the cost of such 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 such units for the confinement of such persons.

Sec. 305. NEW SECTION. LOCAL FACILITIES PREFERRED. 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.

Sec. 306. NEW SECTION. 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.

DIVISION IV

BOARD OF PAROLE

Section 401. NEW SECTION. BOARD OF PAROLE. The board of parole shall consist of three electors of the state. Not more than two members shall belong to the same political party. One member shall be a practicing attorney-at-law at the time of his appointment. Each member shall serve for six years from July 1 of the year of his appointment, except appointees to fill vacancies who shall serve for the balance of the unexpired term. The chairman of the board shall be the member whose term first expires.

Sec. 402. NEW SECTION. APPOINTMENT. The governor shall, during each regular session of the general assembly and within sixty days after the convening thereof, appoint, with the

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approval of two-thirds of the members of the senate, a successor to that member of the board whose term will expire on July 1 following. Appointments may be made when the general assembly is not in session, to fill vacancies, but such appointments shall be subject to the approval of two-thirds of the members of the senate when next in session. Vacancies occurring during a session of the general assembly shall be filled as regular appointments are made and before the end of said session, and for the unexpired portion of the regular term.

Sec. 403. NEW SECTION. INITIAL APPOINTMENT OF BOARD. Persons who are serving as members of the board of parole before the effective date of the act shall continue to serve as such for the unexpired portion of the term for which each was appointed, with the conditions and salary of the initial appointment.

Sec. 404. NEW SECTION. INSTITUTIONAL REPRESENTATIVE. The director of the division of adult corrections shall designate as institutional representative one member of the staff of each of the following: the Iowa state penitentiary, the men's reformatory, the women's reformatory, and the security medical facility. The institutional representatives shall serve as such until his employment at such institution is terminated or another person is designated as institutional representative. The institutional representative shall sit only when an inmate of his institution is being considered by the board for any reason, and shall participate in their deliberations but shall not be a voting member.

Sec. 405. NEW SECTION. EXPENSES OF MEMBERS. Each member of the board, the executive secretary, and all other employees shall, in addition to salary, be entitled to receive their necessary maintenance and traveling expenses while engaged in official business.

Sec. 406. NEW SECTION. ADMINISTRATION. The board of parole shall be responsible directly to the governor. The

board of parole shall appoint an executive secretary and employ a clerical staff sufficient to carry on the necessary duties of the board. The board shall employ not less than two persons who shall serve as liaison personnel between the board, inmates and staff at the state's penal and correctional facilities and who shall perform other duties designated by the board of parole. The board shall submit to the state comptroller an estimate of the funds needed for salaries, maintenance, and office supplies at the time and in the manner provided by section eight point twenty-three (8.23) of the Code.

DIVISION V

PROBATION AND PAROLE SERVICE

Section 501. NEW SECTION. PROBATION AND PAROLE SERVICE. The probation and parole service is part of the department of social services and is supervised by the director of the bureau of adult corrections. It shall consist of parole officers who shall perform such duties as are assigned to them by law and as may be assigned to them by the director.

Sec. 502. NEW SECTION. PAROLE OFFICERS. Parole officers, while performing their duties as such, are peace officers and have all of the powers and authority of peace officers. Parole officers shall investigate all persons referred to them for investigation by the chief parole officer or by any court to which they may be assigned. They shall furnish to each person released under their supervision a written statement of the conditions. They shall keep informed of his conduct and condition and shall use all suitable methods to aid and encourage him to bring about improvement in his conduct and condition. Parole officers shall keep records of their work, shall make reports as required by the court, and shall perform other such duties as may be assigned to them by the chief parole officer or the court. They shall coordinate their work with that of other social welfare agencies operating in the area to which they are assigned.

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Sec. 503. NEW SECTION. PAROLE RELIEF FUND. There is hereby established, from any unappropriated funds in the state treasury, a fund of twelve hundred fifty dollars which shall be known as the parole relief fund. The treasurer of the state shall continue to maintain said fund in said amount. Said fund may be used for the relief of paroled prisoners who are in distress because of illness, loss of employment, or conditions creating personal need. In no instance shall the total amount advances to a prisoner exceed one hundred dollars. The prisoner, at the time of receiving an advancement, shall execute and deliver to his parole officer his written obligation to repay the same during the period of his parole. When so paid, the amount shall be deposited with the treasurer of the state and credited to the fund from which drawn. Such fund shall be drawn on vouchers executed by the director of the bureau of adult corrections in favor of said needy person. Each voucher shall show that the advancement was ordered by the chief parole officer.

Sec. 504. NEW SECTION. LOCAL PROBATION AND PAROLE SERVICES AUTHORIZED. The district court in any judicial district may designate any person or agency to perform the functions of the probation and parole services as to any person not under the supervision of the department of social services and subject to the jurisdiction of that court. The probation and parole services may cooperate with and use the facilities of any such local agency when authorized to do so by the commissioner of social services.

DIVISION VI

PAROLES

Section 601. NEW SECTION. PAROLE. Parole is the release of a person who has been committed to the custody of the commissioner of social services by reason of his commission of a public offense prior to the expiration of his term, subject to supervision by the department of social services and on conditions imposed by the department.

Sec. 602. NEW SECTION. AUTHORITY OF PAROLE BOARD. The board of parole shall promulgate regulations regarding a system of paroles from correctional institutions, and shall direct, control, and supervise the administration of such system of paroles. The board shall determine which of those persons who have been committed to the custody of the director of the division of adult corrections, by reason of their conviction of a public offense, shall be released on parole.

Sec. 603. NEW SECTION. STANDARDS FOR RELEASE ON PAROLE. A parole shall be ordered only for the best interest of society, not as an award of clemency. The board shall release on parole any person whom it has the power to so release, when in its opinion there is reasonable probability that such person can be released without detriment to the community or to himself. A person's release is not a detriment to the community or himself when he is able and willing to fulfill the obligations of a law-abiding citizen, as the board shall determine.

Sec. 604. NEW SECTION. PAROLE PROCEDURE. Within one year after the commitment of any person other than a class A felon to the custody of the director of the division of adult corrections, a member of the board shall interview him. Thereafter, at regular intervals, not to exceed three years, the board shall interview him and consider his prospects for parole. At such time, the board shall consider all pertinent information regarding this person, including the circumstances of his offense, any presentence report which may be available, the previous social history and criminal record of such person, his conduct, employment and attitude in prison, and the report of such physical and mental examinations as have been made. Before ordering the parole of any person, the board shall have such person appear before it and shall interview him. Every person while on parole shall be under the supervision of the department of social services, which shall prescribe regulations for governing persons on parole. The board may

adopt such other rules not inconsistent with the above as it may deem proper or necessary for the performance of its functions.

Sec. 605. NEW SECTION. INFORMATION FROM CORRECTION PERSONNEL. It shall be the duty of all persons employed in any correctional institution to 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 under this Act, to provide for the board or such representatives facilities for communicating with and observing such person, and to furnish to the board such reports as the board shall require 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.

Sec. 606. NEW SECTION. INFORMATION FROM OTHER SOURCES. 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.

Sec. 607. NEW SECTION. 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 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.

Sec. 608. NEW SECTION. PROVISION FOR PAROLEE. When a person is placed on parole he shall receive from the state appropriate clothing and transportation to the place where he is to reside. At the discretion of the board, provisions may be made for the temporary maintenance of such person.

Sec. 609. NEW SECTION. ASSIGNMENT TO PAROLE OFFICER. A person released on parole shall be assigned to a parole officer by the chief parole officer. Both he and his parole officer shall be furnished with the conditions of his parole and the regulations which he will be required to observe, in writing. The parole officer shall explain these conditions and regulations to him, and supervise, assist, and counsel him during the term of his parole.

Sec. 610. NEW SECTION. PAROLE OUTSIDE STATE. 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 and regulations as the board of parole may impose.

Sec. 611. NEW SECTION. 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 return of such persons to the contracting states for violation of the terms of their parole or probation.

Sec. 612. NEW SECTION. DETAINERS. 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.

Any detainer filed against a prisoner must within six

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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 his trial.

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 his trial, the detainer shall be held to be invalid and the parole board shall disregard such detainer in considering a prisoner for parole.

Sec. 613. NEW SECTION. DISCHARGE FROM PAROLE AND RESTORATION OF CIVIL RIGHTS. Unless sooner discharged, a person released on parole shall be discharged when his term of parole equals the period of imprisonment specified in his 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 it shall determine that any person on parole is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, it shall discharge him from parole. In either event, discharge from parole shall terminate his sentence, and shall have the effect of restoring the right to vote and hold public office, and the certification of discharge shall so state.

Sec. 614. NEW SECTION. PAROLE TIME COUNTED. The time when a prisoner is on parole from the institution shall be held to apply upon the sentence against the parolee even if

the parole is subsequently revoked, except that the time when the parolee is in violation of the terms of his parole agreement shall not apply upon the sentence.

The time when a prisoner is absent from the institution by reason of an escape shall not apply upon the sentence against the prisoner.

DIVISION VII

DEFERRED JUDGMENTS, SUSPENDED SENTENCES AND PROBATION

Section 701. NEW SECTION. PROBATION. Probation is the procedure under which a defendant, against whom a judgment of conviction of a public offense may be entered, is released by the court subject to supervision by the probation and parole service.

Sec. 702. NEW SECTION. DEFERRED JUDGMENT OR SUSPENDED SENTENCE. Pursuant to section one hundred six (106) of this chapter, 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 either of the options contained in subsections one (1) and two (2) of this section. However, this section shall not apply to a forcible felony or a violation of section two hundred four point four hundred one (204.401), subsection one (1) or two (2) of the Code, to which section two hundred four point four hundred nine (204.409), subsection two (2) of the Code is not applicable and which is not proved to be an accommodation offense under section two hundred four point four hundred ten (204.410) of the Code.

1. With the consent of the defendant, the court may defer judgment and place the defendant on probation upon such conditions as it may require, or defer sentence and place the defendant as provided in section seven hundred nine (709) of this division. Upon fulfillment of the conditions of probation the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in division eight (VIII)

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of this chapter.

However, this subsection shall not apply if any of the following is true:

a. The offense is a violation of section nine hundred seven (907) of the Iowa Criminal Code and the child is twelve years of age or under.

b. The defendant is a dangerous offender as defined in section two hundred seven (207) of this chapter.

c. 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 he was convicted at the time of his conviction.

d. 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.

e. 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.

2. 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.

Sec. 703. NEW SECTION. DEFERRED JUDGMENT DOCKET. Any deferment of judgment under this subsection shall be reported promptly to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment

against the defendant. The permanent record provided for in this subsection shall constitute a confidential record exempted from public access under section sixty-eight A point seven (68A.7) of the Code and shall be available only to justices of the supreme court, district judges, district associate judges, and judicial magistrates requesting information pursuant to this subsection.

Sec. 704. NEW SECTION. STANDARDS FOR RELEASE ON PROBATION. Before deferring judgment 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 the age of the defendant; his prior record of convictions and prior record of deferments of judgment if any; his employment circumstances; his family circumstances; the nature of the offense committed; and such other factors as are appropriate. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment or to suspend sentence, and its decision on the length of probation.

Sec. 705. NEW SECTION. CONDITIONS OF PROBATION. The court, in ordering probation, may impose any reasonable rules and conditions which will promote rehabilitation of the defendant and protection of the community, including adherence to regulations generally applicable to persons released on parole.

Sec. 706. NEW SECTION. LENGTH OF PROBATION. The length of the probation shall be for such term as the court may 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.

If the person is ordered placed under the custody, care and supervision of the probation and parole service, the term of probation shall be determined by the board of parole and the probation of the defendant shall be supervised by the

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probation and parole service. The length of the probation shall not be less than one year and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled, as provided in section seven hundred eight (708) of this division.

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.

Sec. 707. NEW SECTION. SUPERVISION DURING PROBATIONARY PERIOD. A person released on probation shall be assigned to a parole officer. Both he and his parole officer shall be furnished with the conditions of his probation and the regulations which he will be required to observe, in writing. The parole officer shall explain these conditions and regulations to him, and shall supervise, assist, and counsel him during the term of his probation.

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 probation and parole service. The chief parole officer may also accept the custody, care and supervision of any person granted probation or parole from a sentence to a term in a county jail. Jurisdiction of these persons shall remain with the sentencing court. The chief parole officer shall not, however, accept the custody, care and supervision of any person who in his judgment could not be properly supervised.

In each case wherein the court shall order said person committed to the custody, care, and supervision of the probation and parole service, the clerk of the district shall

at once furnish the chief parole officer 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 chief parole officer, by letter, that the defendant has been placed under the supervision of the probation and parole service and give to the chief parole officer 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 him. If the defendant is confined in the county jail at the time of sentence, the court may order him held until arrangements are made by the probation and parole service for his employment and he 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 him to remain in the county wherein he has been convicted and sentenced and report to the sheriff as to his whereabouts.

Sec. 708. NEW SECTION. DISCHARGE FROM PROBATION. At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of any person from probation. At the expiration of the period of probation, in cases where the court fixes the term of probation, the court shall order the discharge of such person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to such person. A person who has been discharged from probation shall no longer be held to answer for his offense. Upon discharge from probation, if judgment has been deferred under section seven hundred two (702) of this division, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the supreme court administrator as required by section seven hundred three (703) of this division shall not be expunged. The court's record shall never be expunged in any other circumstances except as provided in section six

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hundred two point fifteen (602.15) of the Code.

Sec. 709. NEW SECTION. LOCAL CORRECTIONAL PROGRAM. The court may defer sentencing of any person convicted of a class D felony, or a misdemeanor and order such person to participate in a locally administered correctional program, under such conditions of confinement and surveillance as the court shall prescribe. The court shall retain jurisdiction over such person until such time as he shall be withdrawn from the program by the court. Upon a showing that such person is not cooperating with the program, or is not responding to it, the court may withdraw him from the program and impose any sentence authorized by law. Before taking such action, the court shall give him an opportunity to be heard on any matter relevant to the proposed action.

Sec. 710. NEW SECTION. RELEASE AFTER COMPLETION. When the court has determined that any person ordered to participate in a locally administered correctional program has successfully completed such program, the court shall order such person to be released on probation. The provisions of sections six hundred three (603) through six hundred eight (608), inclusive, of this chapter, shall apply to such release.

Sec. 711. NEW SECTION. 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.

Sec. 712. NEW SECTION. RESTITUTION.

1. As used in this section, unless the context otherwise requires:

a. "Victim" means any person who has suffered pecuniary damages as a result of the defendant's criminal activities. However, with respect to any part of a victim's pecuniary damages paid by an insurer, the insurer shall be regarded as the victim only if the insurer has no right of subrogation and the insured has no duty to pay the proceeds of restitu-

tion to the insurer.

b. "Pecuniary damages" means all damages which a victim could recover against the defendant 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.

c. "Criminal activities" includes any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered and any other crime committed after July 1, 1972 which is admitted or not contested by the defendant, whether or not prosecuted. However, "criminal activities" does not include misdemeanors under chapter three hundred twenty-one (321) of the Code.

d. "Restitution" means full or partial payment of pecuniary damages to a victim.

2. It is the policy of this state that restitution be made by each violator of the criminal laws to the victims of his criminal activities to the extent that the violator is reasonably able to do so. This section shall be interpreted and administered to effectuate this policy.

3. If the trial court exercises either of the sentencing options under section seven hundred two (702) of this division, the court shall require as a condition of probation that the defendant, in cooperation with the probation officer assigned to the defendant, promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is presently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during his probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that he will not be able to make

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any restitution, he shall so state and shall specify the reasons. If the defendant believes that no person suffered pecuniary damages as a result of the defendant's criminal activities, he shall so state.

4. The defendant's plan of restitution and the comments of his probation officer shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it and providing for restitution payments to the extent that the defendant is or may become reasonably able to make restitution, taking into account the factors enumerated in subsection five (5) of this section. Compliance with the plan of restitution as approved or modified by the court shall be a condition of the defendant's probation. Restitution payments shall be made to the clerk unless otherwise directed by the court. The court thereafter may modify the plan at any time upon the defendant's request or upon the court's own motion. If the plan as approved or modified does not require full payment of pecuniary damages to all victims, or if the court determines that the defendant is not able and will not be able to make any restitution at any time during his probation period or that no person suffered pecuniary damages as a result of the defendant's criminal activities, the court shall file a specific written statement of its reasons for and the facts supporting its action or determination.

5. The probation officer when assisting the defendant in preparing the plan of restitution, and the court before approving or modifying the plan of restitution, shall consider the physical and mental health and condition of the defendant, his age, his education, his employment circumstances, his potential for employment and vocational training, his family circumstances, his financial condition, the number of victims, the pecuniary damages of each victim, what plan of restitution will most effectively aid the rehabilitation of the defendant, and such other factors as shall be appropriate. The proba-

tion officer shall attempt to determine the name and address of each victim and the amount of his pecuniary damages.

6. The clerk shall mail to each known victim a copy of the court's order approving or modifying the plan of restitution, including the court's statement, if any, under subsection four (4) of this section.

7. 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 restitution.

8. Failure of the defendant to comply with subsection three (3) of this section or to comply with the plan of restitution 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 restitution or extend the period of time for restitution, but not beyond the maximum probation period specified in section seven hundred six (706) of this division.

9. This section and proceedings under this section shall not limit or impair the rights of victims to sue and recover damages from the defendant in a civil action. However, any restitution payment by the defendant 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. The fact that restitution was required or made shall not be admissible as evidence in a civil action unless offered by such defendant.

Sec. 713. NEW SECTION. PROSECUTIONS PROHIBITED. The action of any court in deferring judgment or conviction in a criminal case prior to the effective date of this Act is valid. No person previously prosecuted shall be tried, sentenced, or convicted based on the same facts as in a prior prosecution on the grounds that a sentence, conviction, or judgment as a result of that prosecution was deferred, and the deferment was later declared by the supreme court of this state to be unauthorized by law. This section shall not apply to any case in which an appeal was pending on June 1, 1973.

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DIVISION VIII

VIOLATIONS OF PAROLE OR PROBATION

Section 801. NEW SECTION. ARREST OF PAROLE VIOLATOR. A parole officer having reasonable grounds to believe that any person released on parole has violated the conditions of his parole may arrest such person, or he may make a complaint before a magistrate, charging such violation, and if it appears from such complaint, or from affidavits filed with it, that there is probable cause to believe that such person has violated the terms of his parole, he shall issue a warrant for the arrest of such person.

Sec. 802. NEW SECTION. INITIAL APPEARANCE. 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 that time the alleged parole violator shall be furnished with a written notice of the claimed violation, shall be advised of his right to appointed counsel under rule twenty-six (26) of the rules of criminal procedure, and shall be given notice that a hearing will take place and that its purpose is to determine whether there is probable cause to believe that he has committed a parole violation.

Sec. 803. NEW SECTION. PROBABLE CAUSE HEARING. At the probable cause hearing, the magistrate shall determine whether there is probable cause to believe that the alleged parole violator has violated his parole. The alleged parole violator shall be informed of the evidence against him. He shall be given an opportunity to be heard in person and to present witnesses and other evidence on his behalf. He shall have the right to confront and cross-examine those furnishing evidence against him, except where the magistrate finds that a witness would be subjected to risk or harm if his identity were disclosed.

Sec. 804. NEW SECTION. WAIVER OF PROBABLE CAUSE HEARING. The alleged parole violator may waive the probable cause

hearing, in which event the magistrate shall proceed as upon a finding of probable cause. Before accepting a waiver of hearing, the magistrate shall inform the alleged violator of the charge against him, of his right to a hearing to determine whether there is probable cause to believe that he has violated his parole, and that if he waives the hearing that he will be committed to the custody of the department of social services without further proceedings, to await the determination of his future status by the parole board. The magistrate shall make a verbatim record of the proceedings in which hearing is waived.

Sec. 805. NEW SECTION. DISCRETIONARY BAIL. An alleged parole violator shall not be admitted to bail or otherwise released from custody as a matter of right, but may be so released at the discretion of the magistrate.

Sec. 806. NEW SECTION. DISPOSITION BY MAGISTRATE. If it appears from the evidence that there is no probable cause to believe that the arrested person has violated the conditions of his parole, the magistrate shall order him to be released from custody and continued on parole. If it appears that there is probable cause to believe that the arrested person has violated the conditions of his parole, the magistrate shall commit him to the custody of the department of social services, and the procedure prescribed in section one hundred seven (107) of this chapter shall apply to such commitment; or the magistrate may admit him to bail as provided in section seven hundred six (706) of this chapter. The committing magistrate shall make a summary of the testimony and other evidence considered by him and a statement of the facts relied on by him as a basis for his finding of probable cause or no probable cause, and shall without delay forward them together with all documents relating to the matter to the executive secretary of the parole board. If the alleged parole violator has waived the probable cause hearing, the verbatim record of that proceeding shall be forwarded in lieu

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of the summary of evidence and statement of facts.

Sec. 807. NEW SECTION. ACTION BY PAROLE BOARD. Upon a finding of probable cause to believe that a parole violation has occurred, the board of parole shall proceed without unreasonable delay to hear the charge of parole violation. Upon receipt of the record prepared and forwarded by the magistrate, the board shall fix a time and place for such hearing and shall notify the alleged violator and his attorney of record and the department of social services. The alleged violator shall be given an opportunity to be heard by the board, to present evidence in his behalf, and to cross-examine adverse witnesses, under such rules as the board shall adopt. The inquiry shall be limited to the following two matters: 1. Did the alleged parole violation actually occur? 2. If the violation did occur, should the violator's parole be revoked? If the board determines that the parole should be revoked, it shall make an order revoking the parole. The board shall furnish the violator with a written statement of the facts relied upon to establish a violation and the reasons for revoking parole.

Sec. 808. NEW SECTION. PROCEEDING WITHOUT ARREST. The board of parole may receive from a parole officer a charge or complaint of parole violation against any parolee and may proceed to a hearing on such charge in any case where the alleged violator has not been arrested or has been arrested and discharged by the magistrate on a finding of no probable cause. The presence of the alleged violator at such hearing shall be secured by summons. A statement of the charge against him shall accompany the summons, and his parole officer shall give him such assistance as he may need to get to the place of the hearing. Travel expenses, if any, shall be paid by the board. If he fails without good cause to appear as commanded by the summons, such failure shall be considered a violation of the parole and the board may proceed to revoke his parole. If the parole is revoked, the board shall issue

a warrant for his arrest and return to the custody of the department of social services. Upon his return to custody, the board shall give him an opportunity to present any matters in defense or mitigation of his conduct if he so requests.

Sec. 809. NEW SECTION. DISPOSITION OF VIOLATOR. If the parole of any parole violator is revoked, the violator shall remain in the custody of the department of social services under the terms of his original commitment. If the parole of any parole violator is not revoked, the board shall order his release subject to the terms of his parole with any modifications that the board shall determine proper.

Sec. 810. NEW SECTION. VIOLATION OF PROBATION. A parole officer or other agency charged with the supervision of a probationer as authorized by section five hundred four (504) of this chapter having reasonable grounds to believe that any person released on probation has violated the conditions of his probation shall proceed by arrest or summons as in the case of a parole violation. The functions of the magistrate 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. Where the parole officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing where 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 thereby. If the violation is established, the court may continue the probation with or without an alteration of the conditions of probation, or may revoke the probation and may require the defendant to serve the sentence imposed, or any lesser sentence, and,

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if imposition of sentence was deferred, may impose any sentence which might originally have been imposed.

Sec. 811. NEW SECTION. CONVICTION OF OTHER OFFENSE. When the alleged violation consists of a conviction of a public offense in this or any other state, such conviction shall be proved by a certified copy of the judgment of conviction, together with evidence that the alleged violator is the person against whom the judgment was rendered. Neither the committing magistrate, court, nor board of parole shall re-try the facts underlying such conviction.

DIVISION IX

FINES

Section 901. NEW SECTION. 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.

Sec. 902. NEW SECTION. FINE IN ADDITION TO IMPRISONMENT. The court may impose a fine in addition to confinement, where such is authorized.

Sec. 903. NEW SECTION. PAYMENT IN INSTALLMENTS. The court may, in its discretion, order a fine to be paid in installments, or may fix a date in the future for the payment of the fine, whenever it appears that the defendant cannot make immediate payment, or should not be made to do so.

Sec. 904. NEW SECTION. 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 asso-

ciation 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 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 one (1) of this section shall be subtracted from the damages recovered by the state.

Sec. 905. NEW SECTION. NONPAYMENT OF FINES. Any person who is able to pay a fine, or an installment of a fine, and who refuses to do so, or who fails to make a good faith effort to pay his fine, or any installment thereof, shall be held in contempt of court.

Sec. 906. NEW SECTION. FINE AS JUDGMENT. 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.

CHAPTER 4

COORDINATING AMENDMENTS

Section 1. Section seven point ten (7.10), Code 1975, is amended to read as follows:

7.10 EMERGENCY HIGHWAY PEACE OFFICERS. Whenever the governor is satisfied that a state of emergency exists, or is likely to exist, on the public streets or highways of this state, because of violations of chapter 321, he shall designate any employee or employees of this state as peace officers pursuant to ~~section 748.3, subsection 6~~ chapter two (2),

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section one hundred four (104), subsection seven (7), paragraph i, of this Act, until such time as the governor is satisfied the state of emergency is ended.

Sec. 2. Section eight point forty (8.40), Code 1975, is amended to read as follows:

8.40 MISDEMEANORS--REMOVAL- IMPEACHMENT. A refusal to perform any of the requirements of this chapter, and the refusal to perform any rule or requirement or request of the governor or the state comptroller made pursuant to or under authority of this chapter, by any board member, commissioner, director, manager, building committee, or other officer or person connected with any institution, or other state department or establishment as herein defined, shall subject the offender to a penalty of two hundred fifty dollars, to be recovered in an action instituted in the district court of Polk county by the attorney general for the use of the state~~, and shall also constitute a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court.~~ If such offender be not an officer elected by vote of the people, such offense shall be sufficient cause for removal from office or dismissal from employment by the governor upon thirty days' notice in writing to such offender; and, if such offender be an officer elected by vote of the people, such offense shall be sufficient cause to subject the offender to impeachment.

Sec. 3. Section eleven point fourteen (11.14), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

A report of such examination shall be made in triplicate signed and verified by the officers making the examination; one copy to be filed with the auditor of state, one copy with the officer under investigation, and one copy to the county auditor who shall transmit same to the board of supervisors if a county office is under investigation, or with the president of the school board if a school is under investigation, or with the mayor and the council if a city office is under

examination. All reports shall be open to public inspection, including copies on file in the office of the state auditor, and refusal on the part of any public official to permit such inspection when such reports have been filed with him shall constitute a simple misdemeanor ~~and shall be punishable by a fine not to exceed fifty dollars or by imprisonment in the county jail not to exceed fifteen days~~.

Sec. 4. Section eleven point nineteen (11.19), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

All reports shall be open to public inspection, including copies on file in the office of the state auditor, and refusal on the part of any public official to permit such inspection when such reports have been filed with him, shall constitute a simple misdemeanor ~~and shall be punishable by a fine not to exceed fifty dollars or by imprisonment in the county jail not to exceed fifteen days~~.

Sec. 5. Section eighteen point ten (18.10), Code 1975, is amended to read as follows:

18.10 CAPITOL BUILDINGS AND GROUNDS--RULES. The director shall establish, publish, and enforce rules regulating and restricting the use by the public of the capitol buildings and grounds. The rules when established shall be posted in conspicuous places about the buildings and grounds. Any person violating any rule, except a parking regulation, shall be guilty of a simple misdemeanor ~~and upon conviction be punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~.

Sec. 6. Section nineteen A point twenty (19A.20), Code 1975, is amended to read as follows:

19A.20 PENALTY. Any person who willfully violates any provision of this chapter or any rules adopted in accordance with this chapter, where no other penalty is prescribed, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished therefor by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more~~

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~~than-thirty-days.~~

Sec. 7. Section twenty-five A point fifteen (25A.15), Code 1975, is amended to read as follows:

25A.15 ATTORNEY'S FEES AND EXPENSES. The court rendering a judgment for the claimant under this chapter, or the state appeal board, with the advice and approval of the attorney general, making an award under section 25A.3, or the attorney general making an award under section 25A.9, as the case may be, shall, as a part of the judgment or award, determine and allow reasonable attorney's fees and expenses, to 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~~, and shall, upon conviction thereof, be subject to a fine of not more than one thousand dollars or imprisonment for not more than one year, or both~~.

Sec. 8. Section twenty-eight A point eight (28A.8), Code 1975, is amended to read as follows:

28A.8 PENALTY. Any person knowingly violating or attempting to violate any provision of this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than one hundred dollars~~.

Sec. 9. Section thirty point three (30.3), Code 1975, is amended to read as follows:

30.3 PENALTIES. ~~If~~ Where no other penalty is provided, any person who shall violate any of the provisions of this chapter, ~~he~~ shall be guilty of a simple misdemeanor ~~and, on the occasion of the first conviction, shall be fined not less than ten dollars nor more than one hundred dollars and, on the occasion of the second or any subsequent conviction, shall be imprisoned not less than one day nor more than thirty days, according to the discretion of the court, within said limits,~~

~~in any case.~~

Sec. 10. Section thirty-five A point nine (35A.9), Code 1975, is amended to read as follows:

35A.9 FALSE STATEMENTS--PENALTY. Whoever knowingly makes a false statement, oral or written, relating to a material fact in supporting a claim under the provisions of this chapter, shall be ~~punished by a fine of not more than one thousand dollars or be imprisoned for not more than one year, or both~~ guilty of a simple misdemeanor, and shall forfeit all benefits he or she might have been entitled to under this chapter.

Sec. 11. Section thirty-five B point nine (35B.9), Code 1975, is amended to read as follows:

35B.9 FALSE STATEMENTS--PENALTY. Whoever knowingly makes a false statement, oral or written, relating to a material fact in supporting a claim under the provisions of this chapter, shall be ~~punished by a fine of not more than one thousand dollars or be imprisoned for not more than one year, or both~~ guilty of a simple misdemeanor, and shall forfeit all benefits he or she might have been entitled to under this chapter.

Sec. 12. Section thirty-eight point one (38.1), Code 1975, is amended to read as follows:

38.1 REGISTRATION OF ALIENS. When a state of war exists between the United States and a foreign country, or, in the judgment of the governor, public safety or necessity requires such action, the governor may, by proclamation, direct every subject or citizen of such foreign countries as the governor may designate in such proclamation, who are in this state, or who may from time to time come into the state, to appear within twenty-four hours after the date specified in such proclamation or after arrival within the state, before such public authorities as the governor may designate in such proclamation, and personally register his or her name, residence, business, length of stay and such other information

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as the governor may require. Such proclamation shall be published in such newspapers as the governor may designate. Every person to whom such proclamation is applicable shall also comply with such rules of personal identification as the governor shall from time to time prescribe. The occupant of every private residence, and the owner, lessee or proprietor, operating or managing every hotel, inn, boarding or rooming house, shall, within twenty-four hours after the date specified in such proclamation, notify such public authorities of the presence therein of every subject or citizen of a foreign country to whom such proclamation is applicable, and shall each day thereafter notify such public authorities of the arrival thereat or departure therefrom of every such subject or citizen. A failure to comply with any such proclamation or to perform any act required by this section shall be a serious misdemeanor~~,-and-punishable-by a-fine-not-exceeding-one-thousand-dollars,-or-imprisonment for-one-year,-or-both~~.

Sec. 13. Section forty-three point one hundred twenty (43.120), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever ~~is-guilty-of~~ commits any of the following acts shall be ~~fined-not-less-than-one-hundred-dollars-nor-more than-five-hundred-dollars,-or-be-imprisoned-in-the-county jail-not-less-than-thirty-days-nor-more-than-six-months~~ guilty of a serious misdemeanor, to wit:

Sec. 14. Section forty-eight point five (48.5), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Such lists shall not be used for any commercial purpose, advertising, or solicitation, of any kind or nature, other than to request such person's vote at a primary or general election, or any other bona fide political purpose. The commissioner shall keep a list of the name, address, telephone number, and social security number of each person who copies

or duplicates such lists. Any person that uses such lists in violation of this section shall, upon conviction, be ~~imprisoned in the county jail, not to exceed one year, or be fined not to exceed one thousand dollars, or by both such fine and imprisonment, for each violation~~ guilty of a serious misdemeanor.

Sec. 15. Section forty-eight point sixteen (48.16), Code 1975, is amended to read as follows:

48.16 PENALTIES. Any officer or employee who shall willfully fail to perform or enforce any of the provisions of this chapter, or who shall unlawfully or fraudulently remove any registration card or record from its proper compartment in the registration records, or who shall willfully destroy any record provided by this chapter, or any person who shall willfully or fraudulently register more than once, or register under any but his true name, or votes or attempts to vote by impersonating another who is registered, or who willfully or fraudulently registers in any election precinct where he is not a resident at the time of registering, or who adds a name or names to a page or pages, or who violates any of the provisions of this chapter, shall be guilty of ~~felony and, upon conviction, shall be imprisoned in the state penitentiary for not less than one year~~ an aggravated misdemeanor.

Sec. 16. Section forty-eight point twenty-seven (48.27), subsection four (4), paragraphs a and d, Code 1975, are amended to read as follows:

a. They shall secure registration of eligible voters anywhere in the jurisdiction of the county commissioner of registration. It shall be unlawful for any mobile deputy registrar to refuse to register any eligible voter and any unreasonable refusal shall be a simple misdemeanor.

d. Mobile deputy registrars shall return all completed registration records at least weekly to the county commissioner of registration except that completed registration records shall be turned in at least every two working days

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during the last ten days of registration. All completed and unused material must be turned in no later than six o'clock on the day registration closes for the election. Failure to comply with this provision shall be a simple misdemeanor.

Sec. 17. Section forty-nine point one hundred eight (49.103), Code 1975, is amended to read as follows:

49.103 PENALTY. Any violation of the provisions of section 49.107 shall ~~be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment for not less than ten days nor more than thirty days in the county jail, or by both fine and imprisonment~~ constitute a simple misdemeanor.

Sec. 18. Section forty-nine point one hundred ten (49.110), Code 1975, is amended to read as follows:

49.110 INTIMIDATION OF EMPLOYEES BY EMPLOYER. Any employer who shall refuse to an employee the privilege conferred by section 49.109, or shall subject such employee to a penalty or reduction of wages because of the exercise of such privilege, or shall in any manner attempt to influence or control such employee as to how he shall vote, by offering any reward, or threatening discharge from employment, or otherwise intimidating or attempting to intimidate such employee from exercising his right to vote, shall be ~~punished by a fine of not less than five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 19. Section forty-nine point one hundred twelve (49.112), Code 1975, is amended to read as follows:

49.112 PENALTY. Any person violating section 49.111 shall be ~~fined not less than ten dollars nor more than one hundred dollars, or imprisoned not less than ten nor more than thirty days, or be punished by both said fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 20. Section forty-nine point one hundred nineteen (49.119), Code 1975, is amended to read as follows:

49.119 PENALTY. Any person violating or attempting to

violate any provisions or requirements of this chapter, or failing or refusing to comply with any order or command of an election officer, made in pursuance of the provisions of this chapter, shall, unless otherwise provided, be ~~punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment of not less than twenty days, nor more than six months, in the county jail~~ guilty of a simple misdemeanor.

Sec. 21. Section forty-nine point one hundred twenty-two (49.122), Code 1975, is amended to read as follows:

49.122 PENALTY. Any person violating any of the provisions of sections 49.120 and 49.121 shall be deemed guilty of a simple misdemeanor ~~and punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months~~.

Sec. 22. Section fifty-one point sixteen (51.16), Code 1975, is amended to read as follows:

51.16 VIOLATIONS. Any judge or clerk violating the provisions of this chapter shall be guilty of a simple misdemeanor, ~~and, upon conviction thereof, shall be liable to a fine of not to exceed five hundred dollars, or imprisonment in the county jail not to exceed six months. Any person so convicted shall be disfranchised for five years thereafter.~~

Sec. 23. Section fifty-three point thirty-four (53.34), Code 1975, is amended to read as follows:

53.34 FALSE AFFIDAVIT. Any person who shall willfully swear falsely to any of such affidavits shall be guilty of ~~perjury, and punished accordingly~~ a fraudulent practice.

Sec. 24. Section fifty-three point thirty-five (53.35), Code 1975, is amended to read as follows:

53.35 REFUSAL TO RETURN BALLOT. Any person who, having procured an official ballot or ballots, shall willfully neglect or refuse to cast or return the same in the manner provided, or who shall willfully violate any provision of this

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chapter, shall, unless otherwise provided, be ~~fined not to exceed one hundred dollars, or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor. Any person who applies for a ballot and willfully neglects or refuses to return the same shall be deemed to have committed an offense in the county to which such ballot was returnable.

Sec. 25. Section fifty-three point thirty-six (53.36), Code 1975, is amended to read as follows:

53.36 OFFENSES BY OFFICERS. If any commissioner or any election officer shall refuse or neglect to perform any of the duties prescribed by this chapter, or shall violate any of the provisions thereof, he shall ~~be fined not less than one hundred dollars nor more than one thousand, or imprisoned in the county jail not to exceed ninety days~~ , where no other penalty is provided, be guilty of a simple misdemeanor.

Sec. 26. Section fifty-six point sixteen (56.16), Code 1975, is amended to read as follows:

56.16 PENALTY. Any person who willfully violates any provisions of this chapter shall upon conviction, be ~~subject to a fine of not more than one thousand dollars or imprisonment in the county jail for not more than thirty days~~ guilty of a serious misdemeanor.

Sec. 27. Section sixty-four point twenty-five (64.25), Code 1975, is amended to read as follows:

64.25 FAILURE TO GIVE BOND. ~~Any~~ Action by any officer ~~who acts~~ in an official capacity without giving bond when such bond is required shall ~~be fined in an amount not exceeding the amount of the bond required of him~~ constitute grounds for removal from office.

Sec. 28. Section sixty-seven point six (67.6), Code 1975, is amended to read as follows:

67.6 EFFECT OF ORDER--PENALTY. It shall be unlawful for such officer, after the making of such order of suspension, to exercise or attempt to exercise any of the functions of his office until such suspension shall be revoked; and any

attempt by the suspended officer to exercise such office shall ~~be punished by imprisonment in the county jail not more than one year, or by a fine not exceeding one thousand dollars, or by both fine and imprisonment~~ constitute a serious misdemeanor.

Sec. 29. Section sixty-eight A point six (68A.6), Code 1975, is amended to read as follows:

68A.6 PENALTY. It shall be unlawful for any person to deny or refuse any citizen of Iowa any right under this chapter, or to cause any such right to be denied or refused. Any person knowingly violating or attempting to violate any provision of this chapter where no other penalty is provided shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than one hundred dollars~~.

Sec. 30. Section sixty-nine point two (69.2), subsection six (6), Code 1975, is amended to read as follows:

6. The conviction of incumbent of an ~~infamous crime~~ aggravated misdemeanor, or of any public offense involving the violation of his oath of office.

Sec. 31. Section seventy-three point five (73.5), Code 1975, is amended to read as follows:

73.5 VIOLATIONS. Any officer or person who is connected with, or is a member or agent or representative of any commission, board, committee, officer or other governing body of this state, or of any county, township, school district, city, or contractor, who fails to give preference to Iowa labor as required in sections 73.3 and 73.4, shall be guilty of a simple misdemeanor~~, and upon conviction shall be punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail for not to exceed thirty days~~. Each separate case of failure to give preference to Iowa labor shall constitute a separate offense.

Sec. 32. Section seventy-five point seven (75.7), Code 1975, is amended to read as follows:

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75.7 PENALTY. Any public officer who fails to perform any duty required by this chapter or who does any act prohibited by this chapter, where no other penalty is provided, shall be guilty of a simple misdemeanor.

Sec. 33. Section seventy-seven point eleven (77.11), Code 1975, is amended to read as follows:

77.11 IMPROPERLY ACTING AS NOTARY. If any notary public exercises the duties of his office after the expiration of his commission, or when otherwise disqualified, or appends his official signature to documents when the parties have not appeared before him, he shall be ~~fined not less than fifty dollars~~ guilty of a simple misdemeanor, and shall be removed from office by the secretary of state.

Sec. 34. Section seventy-seven point fifteen (77.15), Code 1975, is amended to read as follows:

77.15 NEGLECT TO DEPOSIT RECORDS. If any notary, on his resignation or removal, neglects for three months so to deposit them, he shall be guilty of a simple misdemeanor and be liable in an action to any person injured by such neglect.

Sec. 35. Section seventy-seven point sixteen (77.16), Code 1975, is amended to read as follows:

77.16 NEGLECT OF EXECUTOR TO DEPOSIT RECORDS. If an executor or administrator of a deceased notary willfully neglects, for three months after his acceptance of that appointment, to deposit in the secretary of state's office the records and papers of a deceased notary which came into his hands, he shall be held guilty of a simple misdemeanor.

Sec. 36. Section eighty point six (80.6), Code 1975, is amended to read as follows:

80.6 IMPERSONATING OFFICER--UNIFORM. Any person who impersonates a member of the Iowa safety patrol or other officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer, with intent to deceive anyone, shall be guilty of a simple misdemeanor ~~and be punished as provided in section 321.482~~.

Sec. 37. Section eighty A point twelve (80A.12), Code 1975, is amended to read as follows:

80A.12 PENALTIES. Any person, firm or corporation who violates any of the provisions of this chapter ~~or~~ where no other penalty is provided shall be guilty of a simple misdemeanor. Anyone who makes any false statement or representation in any application or statement filed with the commissioner of public safety, as required by this chapter, or any person who falsely states or represents that he has been or is a private detective or advertises himself as such~~,-or-any~~ shall be guilty of a fraudulent practice. Any person, firm, or corporation who engages in the private detective business or profession as defined in this chapter, without being possessed of a current, valid license therefor, as provided by this chapter, shall be guilty of a serious misdemeanor ~~and upon-conviction-thereof-shall-be-punished-by-a-fine-of-not less-than-one-hundred-dollars,-nor-more-than-five-hundred dollars,-or-by-imprisonment-in-the-county-jail-not-to-exceed six-months,-or-by-both-such-fine-and-imprisonment.~~

Sec. 38. Section eighty-one point thirteen (81.13), Code 1975, is amended to read as follows:

81.13 PENALTIES. Any person violating any provision of this chapter shall be guilty of a simple misdemeanor, except as herein otherwise provided~~,-and-shall-upon-conviction-thereof be-punished-by-a-fine-of-not-more-than-one-hundred-dollars or-by-imprisonment-in-the-county-jail-not-exceeding-thirty days~~.

Sec. 39. Section eighty-one A point nine (81A.9), Code 1975, is amended to read as follows:

81A.9 PENALTY. Any merchant, whether an individual person, a firm, corporation, partnership or association violating any of the provisions of this chapter shall~~,-upon conviction,-be-fined-in-a-sum-not-to-exceed-one-hundred-dollars,-or-be-imprisoned-not-to-exceed-thirty-days-in-jail~~ be guilty of a simple misdemeanor. Each sale made in viola-

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tion of the provisions hereof shall be and constitute a separate offense.

Sec. 40. Section eighty-three A point twenty-nine (83A.29), Code 1975, is amended to read as follows:

83A.29 PENALTY FOR FAILURE TO REGISTER. Any operator who fails to make timely application for registration of each site where mining is being conducted is guilty of a simple misdemeanor ~~and on conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment not to exceed thirty days, or both such fine and imprisonment~~. Each day mining activities are conducted at a site for which no application for registration has been made as required under section 83A.13 shall constitute a separate violation.

Sec. 41. Section eighty-four point sixteen (84.16), subsections one (1) and two (2), Code 1975, are amended to read as follows:

84.16 PENALTIES.

1. Any person who violates any provision of this chapter, or any rule or order of the council where no other penalty is provided shall be ~~subject to a penalty of not more than one thousand dollars for each act of violation and for each day that such violation continues, unless the penalty for such violation is otherwise specifically provided for and made exclusive in this chapter~~ guilty of a simple misdemeanor.

2. If any person, for the purpose of evading this chapter, or any rule or order of the council, shall make or cause to be made any false entry or statement in a report required by this chapter or by any such rule or order, or shall make or cause to be made any false entry in any record, account, or memorandum required by this chapter, or by any such rule or order, or shall omit, or cause to be omitted, from any such record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any such rule or order, or shall remove from this state or destroy, mutilate,

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alter or falsify any such record, account, or memorandum, such person shall be guilty of a ~~misdemeanor-and,-upon-conviction,-shall-be-subject-to-a-fine-of-not-more-than-five thousand-dollars-or-imprisonment-in-a-county-jail-for-a-term not-exceeding-six-months,-or-to-both-such-fine-and-imprisonment~~ fraudulent practice.

Sec. 42. Section eighty-four point sixteen (84.16), Code 1975, is amended by striking subsection four (4).

Sec. 43. Section eighty-five point forty-one (85.41), Code 1975, is amended to read as follows:

85.41 REFUSAL TO FURNISH STATEMENT. On failure of the employer to furnish such statement of earnings for thirty days after receiving written request therefor from an injured employee, his agent, attorney, dependent, or legal representative, such employer shall ~~pay-a-penalty-of-twenty-five dollars-for-each-offense-to-be-collected-by-the-commissioner in-any-court-having-jurisdiction-and-paid-into-the-state treasury~~ be guilty of a simple misdemeanor.

Sec. 44. Section eighty-five point fifty-four (85.54), Code 1975, is amended to read as follows:

85.54 CONTRACTS TO AVOID COMPENSATION. Any contract of employment, relief benefit, or insurance, or other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this chapter, shall be null and void; and any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a simple misdemeanor ~~and-punishable-by-a-fine-not-less-than ten-dollars-nor-more-than-fifty-dollars-for-each-offense.~~

Sec. 45. Section eighty-six point four (86.4), Code 1975, is amended to read as follows:

86.4 POLITICAL ACTIVITY AND CONTRIBUTIONS. It shall be unlawful for the commissioner, or any appointee of the commissioner while in office, to espouse the election or appointment of any candidate to any political office, contri-

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bute to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or appointment to any political office, and any person violating the provisions of this section shall be guilty of a simple misdemeanor ~~and shall be fined one hundred dollars, and it shall be sufficient cause for removal from office~~.

Sec. 46. Section eighty-six point five (86.5), Code 1975, is amended to read as follows:

86.5 POLITICAL PROMISES. Any person who is a candidate for appointment as commissioner who makes any promise to another, express or implied, in consideration of any assistance or influence given or recommendation made that the candidate will, if appointed as a commissioner, appoint such person or one whom he may recommend to any office within the power of the commissioner to appoint, shall be ~~fined one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 47. Section eighty-six point ten (86.10), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

~~A refusal~~ Refusal on the part of the employer to submit his books, records, or payrolls for the inspection of the commissioner or his authorized representatives presenting written authority from the commissioner, shall ~~subject the employer to a penalty of one hundred dollars for each such offense, to be collected by civil action in the name of the state, and paid into the state treasury~~ constitute a simple misdemeanor.

Sec. 48. Section eighty-six point twelve (86.12), Code 1975, is amended to read as follows:

86.12 FAILURE TO REPORT. Any employer who willfully fails to make the reports required by this chapter shall be ~~liable to a penalty of fifty dollars for each offense to be recovered by the commissioner~~ guilty of a simple misdemeanor. The commissioner shall be represented by the county attorney of the county in which such proceedings is brought.

Sec. 49. Section eighty-seven point two (87.2), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any employer coming under the provisions of this and chapters 85 and 86 who fails to comply with this section or to post and keep the above notice in the manner and form herein required, shall be guilty of a simple misdemeanor.

Sec. 50. Section eighty-seven point fourteen (87.14), Code 1975, is amended to read as follows:

87.14 MINES--INSURANCE REQUIRED. It shall be unlawful for any person, firm, association, corporation or partnership to engage in the business of operating a mine under any system of removing coal for sale, or any work in connection therewith, or incident thereto, without first obtaining insurance covering compensation payments or obtaining relief therefrom as provided in chapters 85, 86, and 87, as herein amended. Any violation of this section shall be deemed a simple misdemeanor ~~and upon conviction of such offense the offender shall be punished by a fine of not less than ten dollars nor more than one hundred dollars~~. Each day such offense is committed shall be regarded as a separate, wrongful act and may be prosecuted in one proceeding, but in separate counts, at the election of the prosecuting attorney.

Sec. 51. Section eighty-eight point fourteen (88.14), subsection eight (8), Code 1975, is amended to read as follows:

8. DISCLOSURE OF CONFIDENTIAL INFORMATION. Whoever violates the provisions of section 88.12 shall be ~~fined not more than one thousand dollars, or imprisoned not more than one year, or both such fine and imprisonment~~ guilty of a serious misdemeanor; and shall be removed from office or employment.

Sec. 52. Section eighty-eight A point ten (88A.10), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who interferes with, impedes, or obstructs in any manner the commissioner or any authorized represen-

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tative of the bureau in the performance of his duties under this chapter is guilty of a simple misdemeanor. Any person who bribes or attempts to bribe the commissioner or his designee shall be subject to ~~section 739.1~~ chapter one (1), section two thousand two hundred one (2201) of this Act.

Sec. 53. Section eighty-nine point nine (89.9), Code 1975, is amended to read as follows:

89.9 PENALTY. Any person or persons, corporations and directors, managers and superintendents, and officers thereof, violating any of the provisions of this chapter, shall be guilty of a simple misdemeanor~~, and upon conviction thereof shall be punished by a fine in a sum not more than one hundred dollars~~.

Sec. 54. Section ninety-one point sixteen (91.16), Code 1975, is amended to read as follows:

91.16 VIOLATIONS--PENALTIES. Persons violating any of the provisions of this chapter shall be punished as in this section provided, respectively:

1. Any owner, superintendent, manager, or person in charge of any factory, mill, workshop, store, mine, hotel, restaurant, cafe, railway, business house, public or private work, who shall refuse to allow the commissioner of labor or any inspector or employee of the bureau of labor to enter the same, or who shall hinder or deter him in collecting information which it is his duty to collect shall be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

~~2. Any person duly subpoenaed to attend a hearing before the commissioner or deputy or a court in any proceeding provided by this chapter who shall willfully neglect or refuse to attend or testify at the time and place named in the subpoena shall be fined not exceeding fifty dollars or imprisoned in the county jail not exceeding thirty days.~~

~~3~~ 2. Any officer or employee of the bureau of labor, or any person making unlawful use of names or information obtain

by virtue of his office, shall be ~~fined not exceeding five hundred dollars or imprisoned in the county jail not exceeding one year~~ guilty of a serious misdemeanor.

~~4~~ 3. Any owner, operator, or manager of a factory, mill, workshop, mine, store, railway, business house, public or private work, who shall neglect or refuse for thirty days after receipt of notice from the commissioner to furnish any reports or returns he may require to enable him to discharge his duties shall be ~~fined not to exceed one hundred dollars or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 55. Section ninety-two point twenty (92.20), Code 1975, is amended to read as follows:

92.20 PENALTY. The parent, guardian, or person in charge of any migratory worker or of any child who shall engage in any street occupation in violation of any of the provisions of this chapter shall be ~~punished by a fine of not less than twenty dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Any person who furnishes or sells to any minor child any article of any description when he knows or should have known that said minor intends to sell in violation of the provisions of this chapter, shall be ~~punished by a fine of not less than twenty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Any other violation of this chapter for which a penalty is not specifically provided, shall be ~~punishable by a fine of not less than twenty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor. Every day during which any violation of this chapter continues shall constitute a separate and distinct offense, and the employment of any person in violation of this chapter shall, with respect to each person so employed, constitute a separate and distinct offense.

Sec. 56. Section ninety-four point seven (94.7), Code

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1975, is amended to read as follows:

94.7 UNLAWFUL PRACTICES--CIVIL LIABILITY. ~~No~~ Any person, firm, or corporation ~~shall send~~ who sends an application for employment to an employer who has not applied to such person, firm, or corporation for help or labor shall be guilty of a simple misdemeanor. ~~Nor shall any~~ Any person, firm, or corporation engaged in the business of operating an employment agency or bureau, who fraudulently ~~promise or deceive~~ promises or deceives either through a false notice or advertisement or other means, any applicant for help or employment with regard to the service to be rendered by such person, firm, corporation, agency, or bureau shall be guilty of a simple misdemeanor. ~~Any person who violates any of the provisions of this section shall be liable in a civil suit for damages to any person who is damaged or injured thereby and shall also be guilty of a misdemeanor, and upon conviction, shall be punished as provided in section 94.12.~~

Sec. 57. Section ninety-four point twelve (94.12), Code 1975, is amended to read as follows:

94.12 VIOLATIONS. Any person, firm, or corporation violating any of the provisions of this chapter, or who shall refuse access to records, books, or other papers relative to the conduct of such agency or bureau, to any person having authority to examine same, shall be ~~punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor unless otherwise provided.

Sec. 58. Section ninety-five point six (95.6), Code 1975, is amended to read as follows:

95.6 VIOLATIONS. Any person in any manner undertaking to do any of the things described in section 95.1, without first securing a license as herein provided, shall be guilty of a serious misdemeanor.

Sec. 59. Section ninety-six point eleven (96.11), subsection nine (9), Code 1975, is amended to read as follows:

9. SUBPOENAS. In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commission, or appeal tribunal, or any member or duly authorized representative thereof, shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, or an appeal tribunal, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; any failure to obey such order of the court may be punished by said court as a contempt thereof. ~~Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power to do so, in obedience to a subpoena, shall be punished by a fine of not more than two hundred dollars or by imprisonment, for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.~~

Sec. 60. Section ninety-six point fifteen (96.15), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. WAIVER OF RIGHTS VOID. Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this chapter shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual

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in his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned for not more than six months, or both~~ guilty of a serious misdemeanor.

2. LIMITATION OF FEES. No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the commission, or an appeal tribunal or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the commission. Any person who violates any provisions of this subsection shall, for each such offense, be ~~fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not more than six months, or both~~ guilty of a serious misdemeanor.

Sec. 61. Section ninety-six point sixteen (96.16), subsections one (1), two (2), and three (3), Code 1975, are amended to read as follows:

1. PENALTIES. Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, shall be ~~punished by a fine of not less than twenty dollars nor more than fifty dollars or by imprisonment for not longer than thirty days~~ guilty of a fraudulent practice. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

2. FALSE STATEMENT. Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to pre-

vent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required from an employing unit under this chapter, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be ~~punished by a fine of not less than twenty dollars nor more than two hundred dollars, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment~~ guilty of a fraudulent practice; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal, shall constitute a separate offense.

3. UNLAWFUL ACTS. Any person who shall willfully violate any provisions of this chapter or any rule thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be ~~punished by a fine of not less than twenty dollars nor more than two hundred dollars or by imprisonment for not longer than sixty days, or by both such fine and imprisonment~~ guilty of a simple misdemeanor, and each day such violation continues shall be deemed to be a separate offense.

Sec. 62. Section ninety-seven A point thirteen (97A.13), Code 1975, is amended to read as follows:

97A.13 PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system as a result of such act, shall be guilty of a ~~misdemeanor and shall be punishable therefor under the laws of this state~~ fraudulent practice. Should any change or error in records result in any member or beneficiary receiving from the system more or less than

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he would have been entitled to receive had the records been correct, the board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled, shall be paid.

Sec. 63. Section ninety-seven B point thirty-eight (97B.38), Code 1975, is amended to read as follows:

97B.38 FEES FOR SERVICES. The commission may, by rule, prescribe the maximum fees which may be charged for services performed in connection with any claim before the commission under this chapter, and any agreement in violation of such rules shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this chapter by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the commission, shall be deemed guilty of a ~~misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or both~~ fraudulent practice.

Sec. 64. Section ninety-seven B point forty (97B.40), Code 1975, is amended to read as follows:

97B.40 FRAUD. Whoever, for the purpose of causing an increase in any payment authorized to be made under this chapter, or for the purpose of causing any payment to be made where no payment is authorized under this chapter, shall willfully make or cause to be made any false statement or representation as to the amount of any wages paid or received for the period during which earned or unpaid, knowing it to be false or whoever makes or causes to be made any false statement of a material fact knowing it to be false in any appli-

cation for any payment under this chapter, or whoever willfully makes or causes to be made any false statement, representation, affidavit, or document in connection with such an application knowing them to be false, shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both~~ fraudulent practice.

Sec. 65. Section ninety-eight point three (98.3), Code 1975, is amended to read as follows:

98.3 VIOLATION. Any person who shall violate any of the provisions of section 98.2 shall for the first offense be ~~punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days~~ guilty of a simple misdemeanor. For a second or any subsequent violation such person shall be ~~punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than one month nor more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 66. Section ninety-eight point thirty-seven (98.37), Code 1975, is amended to read as follows:

98.37 CERTAIN OFFENSES AND PENALTIES PROVIDED. Whoever shall violate any provision of this chapter ~~for which a fine or imprisonment is not elsewhere specifically provided,~~ shall be ~~punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment for not to exceed thirty days~~ guilty of a simple misdemeanor unless otherwise provided.

Sec. 67. Section ninety-eight point thirty-eight (98.38), Code 1975, is amended to read as follows:

98.38 COUNTERFEITING AND PREVIOUSLY USED STAMPS. Any person who shall print, engrave, make, issue, sell, or circulate, or shall possess or have in his possession with intent to use, sell, circulate, or pass, any counterfeit stamp or

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previously used stamp, or who shall use, or consent to the use of, any counterfeit stamp or previously used stamp in connection with the sale, or offering for sale, of any cigarettes, or who shall place, or cause to be placed, on any individual package of cigarettes, any counterfeit stamp or previously used stamp, shall be guilty of ~~a felony and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars or by imprisonment not more than one year or both such fine and imprisonment~~ an aggravated misdemeanor.

Sec. 68. Section ninety-eight point forty-one (98.41), Code 1975, is amended to read as follows:

98.41 PENALTY. Any person violating any of the provisions of section 98.40 shall be ~~punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 69. Section ninety-eight point forty-five (98.45), unnumbered paragraph four (4), Code 1975, is amended to read as follows:

Any person who fails or refuses to transmit to the director the required reports or whoever refuses to permit the examination of the records by the director shall be guilty of a simple misdemeanor.

Sec. 70. Section ninety-eight point fifty (98.50), Code 1975, is amended to read as follows:

98.50 VIOLATIONS, PENALTIES.

1. Any person who in any manner knowingly attempts to evade the tax imposed by this division or who knowingly aids or abets in the evasion or attempted evasion of the tax or who knowingly violates the provisions of section 98.44, subsection 1, of this division, shall be ~~imprisoned in the county jail for a term of not more than one year or fined not to exceed one thousand dollars, or both~~ guilty of a serious misdemeanor.

2. Any person who otherwise violates any provisions of

this division shall be guilty of a simple misdemeanor.

Sec. 71. Section ninety-nine point one (99.1), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever shall erect, establish, continue, maintain, use, own, or lease any building, erection, or place used for the purpose of ~~lewdness, assignation,~~ prostitution or gambling~~, or pool selling as defined by section 726.6~~, except as authorized under the laws of this state, is guilty of a nuisance, and the building, erection, or place, or the ground itself, in or upon which such ~~lewdness, assignation,~~ prostitution, or gambling~~, or pool selling as defined by section 726.6~~ is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such nuisance, are also declared a nuisance and shall be enjoined and abated as hereinafter provided.

Sec. 72. Section ninety-nine A point one (99A.1), subsection one (1), Code 1975, is amended by striking the subsection and inserting in lieu thereof the following:

1. "Gambling devices" means any devices the possession of which is proscribed by chapter one (1), section two thousand five hundred eleven (2511) of this Act.

Sec. 73. Section ninety-nine B point nine (99B.9), Code 1975, is amended to read as follows:

99B.9 PENALTIES. Any person who conducts, manages, operates, plays or participates in a game of chance or raffle in a manner which causes the winner to be determined other than by chance shall be guilty of a serious misdemeanor. Any person who conducts, manages or operates a game of skill, game of chance or raffle in violation of the provisions of this chapter and section 726.12 shall be guilty of a serious misdemeanor.

~~A misdemeanor under this section is punishable by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars or by both impris-~~

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~~onment and fine.~~

Sec. 74. Section one hundred point four (100.4), Code 1975, is amended to read as follows:

100.4 REFUSAL OF OFFICER TO INVESTIGATE. Any chief of a fire department, mayor, or township clerk who fails or refuses to make the investigation and report required of him, shall be ~~fined in a sum not less than five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 75. Section one hundred point eight (100.8), Code Code 1975, is amended to read as follows:

100.8 REFUSAL TO TESTIFY OR PRODUCE BOOKS. Any witness who refuses to be sworn, ~~or refuses to testify,~~ except as otherwise provided by law, or who disobeys any lawful order of said fire marshal, or his designated subordinates, or who fails to produce any books, papers, or documents touching any matter under examination, shall be guilty of a simple misdemeanor~~, and shall be fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~.

Sec. 76. Section one hundred point thirty-five (100.35), Code 1975, is amended to read as follows:

100.35 RULES OF MARSHAL. The fire marshal shall adopt, amend, promulgate and enforce rules and standards relating to fire protection, fire safety and the elimination of fire hazards in churches, schools, hotels, theaters, amphitheaters, hospitals, health care facilities as defined in section 135C.1, boarding homes or housing, rest homes, dormitories, college buildings, lodge halls, club rooms, public meeting places, places of amusement, and all other buildings or structures in which persons congregate from time to time, whether publicly or privately owned. Any person, firm or corporation violating any of such rules and regulations of the fire marshal shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars~~. Each day of the

continuing violation of such rules after conviction shall be considered a separate offense. Appeals may be taken from such convictions as in other criminal cases.

Sec. 77. Section one hundred one point seven (101.7), Code 1975, is amended to read as follows:

101.7 PENALTY. Any person, firm or corporation violating any of the rules promulgated under this chapter shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars~~. Each day of the continuing violation of such rules after conviction shall be considered a separate offense. Appeals may be taken from such convictions as in other criminal cases.

Sec. 78. Section one hundred one A point one (101A.1), subsection one (1), Code 1975, is amended to read as follows:

1. "Explosive" or "explosives" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States department of transportation. The term "explosives" includes all material which is classified as class A, class B, and class C explosives by the United States department of transportation, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices and cartridges for industrial guns, but shall not include "fireworks" as defined ~~and regulated pursuant to sections 732.47 through 732.49~~ in chapter one (1), section two thousand seven hundred two (2702) of this Act nor ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols. Commercial explosives are those explosives which

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are intended to be used in commercial or industrial operations.

Sec. 79. Section one hundred one A point fourteen (101A.14), Code 1975, is amended to read as follows:

101A.14 CRIMINAL PENALTIES.

1. Any person who violates the provisions of section 101A.2, subsection 3, or section 101A.3, subsection 4, commits a public offense and, upon conviction, shall be ~~punished by imprisonment in the penitentiary for a term not to exceed fifteen years, or fined not to exceed five thousand dollars, or by both such imprisonment and fine~~ guilty of a class C felony.

2. Any person who violates the provisions of sections 101A.6, 101A.8 or 101A.9 or any of the rules adopted by the commissioner of public safety pursuant to the provisions of this chapter, commits a ~~public offense and, upon conviction, shall be punished by imprisonment in the county jail not to exceed thirty days, or fined not to exceed one hundred dollars~~ simple misdemeanor.

Sec. 80. Section one hundred two point four (102.4), Code 1975, is amended to read as follows:

102.4 FALSE CLAIM TO EXEMPTION. Any person who shall by misrepresentation, or by the use of a false certificate or the certificate of any other person, endeavor to avail himself of the benefits of this chapter, ~~upon conviction thereof,~~ shall be ~~imprisoned in the county jail for a period of not more than six nor less than one month, and pay a fine of not less than ten nor more than one hundred dollars~~ guilty of a serious misdemeanor.

Sec. 81. Section one hundred three point seventeen (103.17), Code 1975, is amended to read as follows:

103.17 VIOLATIONS. Any person who shall violate any of the provisions of law relating to fire escapes, or means of escape from fire, or any owner, agent, or trustee having the full care and control of any building and who has been served with notice as provided herein and who shall, within sixty

days of the service of the notice, or within the time as extended by the state fire marshal, fail and neglect to comply with the requirements of law, or of the state fire marshal, or who shall fail, refuse, or neglect to perform any order or requiement fixed by law, or by the state fire marshal, shall be ~~punished by a fine of not less than twenty-five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor. Each additional week of neglect to comply with such notice, order, or requirement shall constitute a separate offense.

Sec. 82. Section one hundred three A point twenty-one (103A.21), subsections one (1) and two (2), Code 1975, are amended to read as follows:

103A.21 PENALTY.

1. Any person served with an order pursuant to the provisions of section 103A.19, subsection 3, who fails to comply with the order within thirty days after service or within the time fixed by the local building department for compliance, whichever is longer, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building or structure who shall knowingly violate any of the applicable provisions of the state building code or any lawful order of a local building department made thereunder, shall be ~~punishable by a fine of not more than one hundred dollars, or thirty days in jail, or by both fine and imprisonment~~ guilty of a simple misdemeanor.

2. Violation of this chapter shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person.

Violations of this section shall be simple misdemeanors, and ~~municipal, police, or mayors'~~ magistrates' and district associate judges' courts shall have exclusive jurisdiction to originally hear and determine charges of violations.

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Sec. 83. Section one hundred four point seventeen (104.17), Code 1975, is amended to read as follows:

104.17 PENALTIES.

1. Any owner who violates any of the provisions of this chapter shall be ~~punished for each offense by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days in the county jail~~ guilty of a simple misdemeanor, unless otherwise specifically provided in this chapter.

2. Any person who bribes or attempts to bribe an inspector shall be subject to criminal proceedings under ~~section 739.4~~ chapter one (1), section two thousand two hundred one (2201) of this Act.

Sec. 84. Section one hundred six point seven (106.7), subsection five (5), Code 1975, is amended to read as follows:

5. Failure of the operator of any vessel involved in a collision, reportable accident, or other casualty, to offer assistance and aid to other persons affected by such collision, accident, or casualty, as set forth in this chapter, shall ~~be punishable by a fine of not more than one thousand dollars, or imprisonment in the county jail for not more than one year, or both~~ constitute a serious misdemeanor.

Sec. 85. Section one hundred six point thirteen (106.13), Code 1975, is amended to read as follows:

106.13 PENALTY. Any person violating any of the provisions of this chapter, for which another penalty is not otherwise specifically provided, shall, ~~upon conviction or a plea of guilty, be fined not to exceed one hundred dollars or be imprisoned in the county jail not to exceed thirty days~~ be guilty of a simple misdemeanor.

Chapter 232 shall have no application in the prosecution of offenses committed in violation of this chapter or rules and regulations which are adopted under the authority of this chapter which ~~are punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty~~

~~days~~ constitute simple misdemeanors.

Sec. 86. Section one hundred six point twenty-five (106.25), Code 1975, is amended to read as follows:

106.25 PENALTY. If any owner, agent or master of any vessel, plying the waters of this state, shall hire or offer for hire, such vessel for the carrying of a person or persons thereon, without first obtaining annually, a permit as in this chapter required, and before operating such vessel in such service; or if the owner, agent or master, having obtained such permit, receives for carriage or permits carriage on such vessel a greater number of persons than authorized therein, or if any person acts as pilot or engineer on any vessel, for which inspection and registration are required, without first obtaining a permit therefor; or if such pilot or engineer continues to follow such avocation after the same has been revoked or expired, he shall be ~~fined in a sum not to exceed one thousand dollars or imprisoned in the county jail not to exceed one year or punished by both such fine and imprisonment~~ guilty of a serious misdemeanor. The provisions of this section shall not apply to vessels registered or numbered by authority of the United States.

Sec. 87. Section one hundred nine point nine (109.9), Code 1975, is amended to read as follows:

109.9 SPAWNING GROUNDS. To effect sound wildlife management and maintain biological balance as provided in section 109.39, the commission may set aside certain portions of any state waters for spawning grounds where the same are suitable for this purpose for such length of time as it may deem advisable by the posting of notices in conspicuous places around such area, and it shall be unlawful for any person to fish or to in any manner interfere with the spawning of fish in this area. Any person violating any of the provisions of this section shall be guilty of a simple misdemeanor ~~and punished as provided in section 109.32~~.

Sec. 88. Section one hundred nine point thirty-two

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(109.32), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever shall take, catch, kill, injure, destroy, have in possession, buy, sell, ship, or transport any frogs, fish, mussels, birds, their nests, eggs, or plumage, fowls, game, or animals in violation of the provisions of this chapter or of administrative rules of the commission or whoever shall use any device, equipment, seine, trap, net, tackle, firearm, drug, poison, explosive, or other substance or means, the use of which is prohibited by this chapter, or use the same at a time, place or in a manner or for a purpose prohibited, or do any other act in violation of the provisions of this chapter or of administrative rules of the commission for which no other punishment is provided, shall be ~~fined not less than ten dollars nor more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 89. Section one hundred nine point thirty-three (109.33), Code 1975, is amended to read as follows:

109.33 VIOLATIONS RELATING TO DAMS. Whoever shall erect any dam or other obstruction prohibited by this chapter or at a place or in a manner prohibited shall be guilty of a simple misdemeanor, or shall injure or destroy any dam lawfully erected, shall be ~~fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not more than one hundred days~~ guilty of an aggravated misdemeanor.

Sec. 90. Section one hundred nine point thirty-four (109.34), Code 1975, is amended to read as follows:

109.34 VIOLATIONS BY COMMON CARRIER. Any common carrier which shall violate any of the provisions of this chapter relating to receiving, having in possession, shipping or delivering any fish, fowls, birds, birds' nests, eggs, or plumage, game or animals, in violation of the provisions of this chapter or contrary to the regulations and restrictions therein

provided, and any agent, employee, or servant of such corporation violating such provisions, shall be ~~fined not less than one hundred dollars nor more than three hundred dollars, and any such agent, employee, or servant may be imprisoned not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 91. Section one hundred nine point sixty-one (109.61), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Violation of the provisions of this section shall constitute a simple misdemeanor ~~and punishment shall be as provided for in section 109.32~~.

Sec. 92. Section one hundred nine point eighty-seven (109.87), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Taking or attempting to take beaver on private lands or waters without permission of the owner or tenant shall constitute a simple misdemeanor ~~punishable as provided in section 109.32~~.

Sec. 93. Section one hundred nine point ninety-three (109.93), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating this section shall be ~~punished by a fine of not more than three hundred dollars or imprisonment in the county jail for a period not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 94. Section one hundred nine point one hundred twenty (109.120), Code 1975, is amended to read as follows:

109.120 HUNTING FROM AIRCRAFT OR SNOWMOBILES PROHIBITED. It shall be unlawful for any person to intentionally kill or wound, attempt to kill or wound, or pursue any animal, fowl or fish from or with an aircraft in flight or from or with any self-propelled vehicles designed for travel on snow or ice which utilize sled type runners, or skis, or an endless belt tread or any combination thereof and which are commonly known as snowmobiles. Any person who violates the provi-

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sions of this section shall be guilty of a simple misdemeaor ~~and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars, or by a term not to exceed thirty days in the county jail.~~

Sec. 95. Section one hundred ten point thirteen (110.13), Code 1975, is amended to read as follows:

110.13 UNLAWFUL USE--EFFECT. The use of a license by a person other than that to whom issued shall nullify said license and such use shall constitute a simple misdemeanor.

Sec. 96. Section one hundred ten point twenty-one (110.21), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

110.21 HEARING. At the hearing the magistrate must proceed to take testimony in relation to the property seized and any person claiming an interest in the property, or in any part thereof, may appear and show specific and legal cause why the same shall not be forfeited.

Sec. 97. Section one hundred ten point twenty-six (110.26), Code 1975, is amended to read as follows:

110.26 PENALTIES. Whoever shall violate any of the provisions of this chapter shall be ~~fined not less than ten dollars nor more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 98. Section one hundred ten A point nine (110A.9), Code 1975, is amended to read as follows:

110A.9 VIOLATIONS--PENALTY. Any licensee or any other person, who willfully and intentionally transfers or permits the transfer of the tags issued to the operator of one licensed game breeding and shooting preserve area to the operator of another licensed game breeding and shooting preserve area, or to any other person, or who affixes such tags to game birds not taken from a licensed game breeding and shooting preserve area or to game birds taken from any area other than the area for which such tags were issued, is guilty of

a simple misdemeanor.

Sec. 99. Section one hundred eleven point four (111.4), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person, firm, association, or corporation violating any of the provisions of this section or any rule or regulation adopted by the commission under the authority of this section shall be guilty of a simple misdemeanor~~,-and-upon conviction-shall-be-punished-by-a-fine-of-not-to-exceed-one hundred-dollars-or-by-imprisonment-in-the-county-jail-not to-exceed-thirty-days~~.

Sec. 100. Section one hundred eleven point fifty-seven (111.57), Code 1975, is amended to read as follows:

111.57 PENALTIES. Any person violating any of the provisions of the foregoing sections number 111.35 to 111.56, inclusive, shall~~,-upon-conviction,-be-fined-not-to-exceed one-hundred-dollars-or-be-imprisoned-in-the-county-jail-not to-exceed-thirty-days~~ be guilty of a simple misdemeanor.

Sec. 101. Section one hundred eleven A point five (111A.5), Code 1975, is amended to read as follows:

111A.5 RULES AND REGULATIONS--OFFICERS. The county conservation board may make, alter, amend or repeal rules and regulations for the protection, regulation and control of all museums, parks, preserves, parkways, playgrounds, recreation centers, and other property under its control. No rules and regulations adopted shall be contrary to, or inconsistent with, the laws of the state of Iowa. Such rules and regulations shall not take effect until ten days after their adoption by said board and after their publication once a week for two weeks in at least one paper circulating in the county and after a copy thereof has been posted near each gate or principal entrance to the public ground to which they apply. After such publication and posting, any person violating any provision of such rules and regulations which are then in effect shall~~,-upon-conviction,-be-fined-not-more-than-one~~

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~~hundred-dollars-or-be-imprisoned-in-the-county-jail-not-more than-thirty-days~~ be guilty of a simple misdemeanor. The board may designate the executive officer and such employees as he may designate as police officers who shall have all the powers conferred by law on police officers, peace officers, or sheriffs in the enforcement of the laws of the state of Iowa and the apprehension of violators thereof.

Sec. 102. Section one hundred fourteen point twenty-five (114.25), Code 1975, is amended to read as follows:

114.25 VIOLATIONS. Any person who ~~violates-such-permanent-injunction-or~~ presents or attempts to file as his own the certificate of registration of another, or who shall give false or forged evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration, or who shall falsely impersonate another practitioner of like or different name, or who shall use or attempt to use a revoked certificate of registration, shall be deemed guilty of a ~~misdemeanor-and-shall-be-punished-by-a-fine-of-not-less than-one-hundred-dollars-nor-more-than-five-hundred-dollars, or-by-imprisonment-for-three-months,-or-by-both-such-fine and-imprisonment~~ fraudulent practice.

Sec. 103. Section one hundred fourteen point thirty-two (114.32), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine-not exceeding-one-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 104. Section one hundred fifteen point nine (115.9), Code 1975, is amended to read as follows:

115.9 VIOLATIONS PUNISHED. Any ~~violation-of~~ person who violates the provisions of this chapter shall be ~~punished by-a-fine-not-exceeding-one-hundred-dollars~~ guilty of a simple

misdemeanor.

Sec. 105. Section one hundred fifteen point twenty (115.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 106. Section one hundred sixteen point sixteen (116.16), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 107. Section one hundred sixteen point twenty-nine (116.29), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person who violates any provisions of section 116.25 shall be guilty of a serious misdemeanor~~, and upon conviction, shall be subject to a fine of not more than five hundred dollars, or to imprisonment for not more than one year, or to both such fine and imprisonment~~.

Sec. 108. Section one hundred seventeen point forty-three (117.43), Code 1975, is amended to read as follows:

117.43 PENALTIES. Any person found guilty of violating a provision of sections 117.1 to 117.42, inclusive, in a first offense shall be ~~punished by a fine of not to exceed one hundred dollars or by imprisonment for a term of not to exceed thirty days in jail~~ guilty of a simple misdemeanor.

Sec. 109. Section one hundred seventeen point forty-five

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(117.45), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who shall violate the provisions of this section shall be ~~imprisoned in the penitentiary not exceeding two years, or may be fined in the discretion of the court, not exceeding five thousand dollars, or imprisoned in the county jail not more than one year~~ guilty of a fraudulent practice.

Sec. 110. Section one hundred seventeen point fifty-two (117.52), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 111. Section one hundred seventeen A point five (117A.5), Code 1975, is amended to read as follows:

117A.5 PENALTIES.

1. Any person, firm, partnership, corporation, company, or association representing in any manner that the state, the commission or any officer thereof has recommended or acquiesced in the recommendation of the purchase of any subdivided land offered for sale or lease, in advertising or offering such subdivided land for sale or lease, shall be guilty of a serious misdemeanor ~~and shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment~~.

2. Any person, officer, director, agent, or employee of a person, company, firm, partnership, association, or corporation offering to sell or lease, or selling or leasing, subdivided land prior to the filing of the offering statement and the application required by this chapter shall be

guilty of a serious misdemeanor ~~and punished by a fine not to exceed two thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment.~~

3. Except as provided in subsection 2, every person, officer, director, agent, or employee of a person, company, firm, partnership, corporation, or association who authorizes, directs, or aids in the publication, advertisement, distribution, or circulation of any device, scheme, or artifice for obtaining money or property by means of any false pretense, representation, or promise concerning any subdivided land offered for sale or lease, and every person, officer, director, agent, or employee of a company, firm, partnership, corporation, or association who make or attempts to make fictitious or pretended purchases or sales of subdivided lands in this state, or in any other respect willfully violates or fails to comply with any of the provisions of this chapter, or omits or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement of the commission under the provisions of this chapter, is guilty of a serious misdemeanor ~~and shall be punished by a fine not to exceed two thousand dollars or by imprisonment in the county jail for a term not to exceed one year or by both such fine and imprisonment, and if such person is a licensee under chapter 117, the commission also may revoke or suspend his license in the manner provided in such chapter.~~

Sec. 112. Section one hundred eighteen point nineteen (118.19), Code 1975, is amended to read as follows:

118.19 VIOLATIONS--PUNISHMENT. Any person who practices or offers to practice architecture or who uses the word architect or any word or any letters or figures indicating or tending to imply that the person using the same in an architect, without first having complied with the provisions of this chapter, shall be deemed guilty of a serious misdemeanor ~~and shall be punished with a fine of not more than two hundred~~

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~~dollars-or-imprisonment-for-not-more-than-one-year,-or-both such-fine-and-imprisonment.~~

Sec. 113. Section one hundred eighteen point twenty-seven (118.27), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine not-exceeding-one-hundred-dollars-or-by-imprisonment-in-the county-jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 114. Section one hundred eighteen A point eighteen (118A.18), Code 1975, is amended to read as follows:

118A.18 UNLAWFUL PRACTICE. Any person who uses the words landscape architect or any word or any letters or figures indicating or tending to imply that the person using the same is a landscape architect, without having a valid certificate of registration as a landscape architect issued pursuant to this chapter, is guilty of a simple misdemeanor ~~and-upon conviction-may-be-sentenced-to-pay-a-fine-of-not-more-than five-hundred-dollars-or-be-imprisoned-for-not-more-than-three months,-or-be-subject-to-both-such-fine-and-imprisonment.~~

Sec. 115. Section one hundred nineteen point one (119.1), Code 1975, is amended to read as follows:

119.1 FRAUDULENT MARKING. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made, in whole or in part, of gold or any alloy of gold, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, any mark indicating or designed to indicate that the gold or alloy in such article is of a greater degree of fineness than the actual fineness or qualify thereof, unless the actual fineness thereof, in the case of flatware or watch-

cases, be not less by more than three one-thousandths parts, and in case of all other articles be not less by more than one-half carat than the fineness indicated by the marks stamped, branded, engraved, or imprinted upon any part of such aticle, or upon any tag, card, or label attached thereto, or upon any container in which such article is enclosed according to the standards and subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 116. Section one hundred nineteen point three (119.3), Code 1975, is amended to read as follows:

119.3 "STERLING SILVER." Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having marked, stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, the words "sterling silver" or "sterling" or any colorable imitation thereof, unless nine hundred twenty-five one-thousands of the component parts of the metal purporting to be silver of which such aticle is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice, but in the case of all such articles there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standard.

Sec. 117. Section one hundred nineteen point four (119.4), Code 1975, is amended to read as follows:

119.4 "COIN SILVER." Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having marked, stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached

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thereto, or upon any box, package, cover, or wrapper in which such article is enclosed, the words "coin" or "coin silver", or any colorable imitation thereof, unless nine hundred one-thousandths of the component parts of the metal appearing or purporting to be silver of which such article is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice; but in case of all such articles there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standards.

Sec. 118. Section one hundred nineteen point five (119.5), Code 1975, is amended to read as follows:

119.5 OTHER ARTICLES OF SILVER. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said aticle is enclosed, any mark or word, other than the word "sterling" or the word "coin", indicating, or designed to indicate that the silver or alloy of silver in said article is of a greater degree of fineness than the actual fineness or quality, unless the actual fineness of the silver or alloy or silver of which said article is composed be not less by more than four one-thousandths parts than the actual fineness indicated by the said mark or word, other than the word "sterling" or "coin", stamped, branded, engraved, or imprinted upon any part of said article, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 119. Section one hundred nineteen point seven (119.7), Code 1975, is amended to read as follows:

119.7 GOLD-PLATED OR GOLD-FILLED ARTICLES. Any person

making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal having deposited or plated thereon, or brazed or otherwise affixed thereto, a plate, plating, covering, or sheet of gold or of any alloy of gold and which article is known in the market as "rolled gold-plate", "gold-plate", "gold-filled", or "gold-electroplate", or by any similar designation, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, any word or mark usually employed to indicate the fineness of gold, unless said word be accompanied by other words plainly indicating that such article or part thereof is made of rolled gold-plate, or gold-plate, or gold-electroplate, or is gold-filled, as the case may be, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 120. Section one hundred nineteen point eight (119.8), Code 1975, is amended to read as follows:

119.8 SILVER-PLATED ARTICLES. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal having deposited or plated thereon, or brazed or otherwise affixed thereto, a plate, plating, covering, or sheet of silver or of any alloy of silver, and which article is known in the market as "silver-plate" or "silver-electroplate", or by any similar designation, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is encased or enclosed, the word "sterling" or the word "coin" either alone or in conjunction with any other words or marks, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 121. Section one hundred nineteen point nine (119.9), Code 1975, is amended to read as follows:

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119.9 VIOLATION. Every person guilty of a violation of the provisions of this chapter, and every officer, manager, director, or agent of any such person directly participating in such violation or consenting thereto, shall be ~~punished by a fine of not more than five hundred dollars or imprisonment for not more than three months, or both, at the discretion of the court~~ guilty of a simple misdemeanor; but nothing in this chapter shall apply to articles manufactured prior to June 13, 1907.

Sec. 122. Section one hundred twenty point thirteen (120.13), Code 1975, is amended to read as follows:

120.13 PENALTY. Anyone not having a certificate of registration who shall hold himself out as a watchmaker or as one qualified to do watchmaking or anyone who shall violate any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment~~.

Sec. 123. Section one hundred twenty point seventeen (120.17), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 124. Section one hundred twenty-one point five (121.5), Code 1975, is amended to read as follows:

121.5 PENALTY. Any person or persons, firm or firms, partnership or partnerships, association or associations, corporation or corporations, or any agent or servant thereof, who shall violate any of the provisions of this chapter shall be ~~punishable by fine not to exceed three hundred dollars~~

~~or-by-imprisonment-not-to-exceed-ninety-days,-or-both~~ guilty of a simple misdemeanor.

Sec. 125. Section one hundred twenty-two point six (122.6), Code 1975, is amended to read as follows:

122.6 VIOLATIONS. Any person who shall violate the provisions of this chapter or who shall solicit funds without a permit, or if under a permit thereafter divert the same to purposes other than for which said donations were contributed, shall be deemed guilty of a simple misdemeanor ~~and-upon-conviction-shall-be-punished-by-a-fine-of-not-more-than-one-hundred-dollars-or-by-imprisonment-in-the-county-jail-for-not-to-exceed-thirty-days.~~

Sec. 126. Section one hundred twenty-three point forty-eight (123.48), subsection two (2), Code 1975, is amended to read as follows:

2. Any person under legal age who presents to any vendor falsified evidence of age as provided in subsection 1 of this section shall be guilty of a simple misdemeanor ~~and upon-conviction-shall-be-punished-by-a-fine-not-to-exceed one-hundred-dollars-or-by-imprisonment-in-the-county-jail for-not-more-than-thirty-days.~~

Sec. 127. Section one hundred twenty-three point fifty (123.50), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any of the provision of section 123.49 shall be ~~subject-to-a-fine-of-not-to-exceed-one hundred-dollars-or-to-imprisonment-for-not-more-than-thirty days-in-the-county-jail~~ guilty of a simple misdemeanor.

Sec. 128. Section one hundred twenty-three point fifty-one (123.51), subsection four (4), Code 1975, is amended to read as follows:

4. Violations of this section shall be a simple misdemeanor ~~punishable-by-a-fine-not-exceeding-one-hundred-dollars-or-imprisonment-in-the-county-jail-not-exceeding-thirty days.~~

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Sec. 129. Section one hundred twenty-three point eighty-seven (123.87), Code 1975, is amended to read as follows:

123.87 PROMPT SERVICE. It shall be a simple misdemeaor for any peace officer to delay service of original notices, writs of injunction, writs of abatement, or warrants for contempt in any equity case filed for injunction or abatement by the state.

Sec. 130. Section one hundred twenty-three point ninety-nine (123.99), Code 1975, is amended to read as follows:

123.99 FALSE STATEMENTS. If any person, for the purpose of procuring the shipment, transportation, or conveyance of any intoxicating liquors within this state, shall make to any person, company, corporation, or common carrier, or to any agent thereof, any false statements as to the character or contents of any box, barrel, or other vessel or package containing such liquors; or shall refuse to give correct and truthful information as to the contents of any such box, barrel, or other vessel or package so sought to be transported or conveyed; or shall falsely mark, brand, or label such box, barrel, or other vessel or package in order to conceal the fact that the same contains intoxicating liquors; or shall by any device or concealment procure or attempt to procure the conveyance or transportation of such liquors as herein prohibited, he shall be ~~fined for each offense one hundred dollars and costs of prosecution, and be committed to the county jail until such fine and costs are paid~~ guilty of a simple misdemeanor.

Sec. 131. Section one hundred twenty-three point one hundred two (123.102), Code 1975, is amended to read as follows:

123.102 INSPECTION OF SHIPPING RECORDS. The record book required by section 123.101 shall, during business hours, be open to inspection by any peace or law enforcing officer. It shall be a simple misdemeanor to refuse such inspection.

Sec. 132. Section one hundred twenty-three point one hundred four (123.104), unnumbered paragraph one (1), Code 1975,

is amended to read as follows:

It shall be a simple misdemeanor for any corporation, common carrier, person, or any agent or employee thereof:

Sec. 133. Section one hundred twenty-seven point eleven (127.11), subsection one (1), Code 1975, is amended by striking the subsection and inserting in lieu thereof the following:

1. SERVICE OF NOTICE. Notice shall be served at least three days prior to the hearing by posting a copy thereof in some conspicuous place on or about the building or place where said property was seized.

If the person or persons named or described in the information as owner or keeper of the property so seized be resident of said county, then by personally serving said notice on said person, or by leaving a copy of said notice at the last known usual place of residence of said person with some adult member of his family if found at said residence.

In addition notice shall be published once a week for two weeks in some newspaper published in the city or county in which said conveyance was seized, and if the conveyance be a motor vehicle a copy of the aforesaid notice shall forthwith be mailed to the commissioner of public safety.

Sec. 134. Section one hundred thirty-five point twenty (135.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who sells or offers to sell any pipe for use in the construction, reconstruction, or modificaton of a water well which is not clearly marked as provided in this section or who willfully alters any markings on such pipe in violation of this section, shall be guilty of a simple misdemeanor~~, and, upon conviction, shall be fined not more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~. Each violation shall constitute a separate offense.

Sec. 135. Section one hundred thirty-five point thirty-

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six (135.36), Code 1975, is amended to read as follows:

135.36 INTERFERENCE WITH HEALTH OFFICER. Any person resisting or interfering with the department, its employees, or authorized agents, in the discharge of any duty imposed by law shall be guilty of a simple misdemeanor.

Sec. 136. Section one hundred thirty-five point thirty-eight (135.38), Code 1975, is amended to read as follows:

135.38 PENALTY. Any person who knowingly violates any provision of this chapter, or of the rules of the department, or any lawful order, written or oral, of the department or of its officers, or authorized agents, shall be guilty of a simple misdemeanor. ~~If said rules relate to the practice of cosmetology or barbering said misdemeanors shall be punished by a fine of not to exceed one hundred dollars or by imprisonment not to exceed thirty days.~~

Sec. 137. Section one hundred thirty-five point forty-one (135.41), Code 1975, is amended to read as follows:

135.41 PUBLICATION. The state department of health, the Iowa medical society or any of its allied medical societies or the Iowa society of osteopathic physicians and surgeons or any in-hospital staff committee shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances. A violation of this section shall constitute a simple misdemeanor ~~and be punishable as such~~.

Sec. 138. Section one hundred thirty-five B point fifteen (135B.15), Code 1975, is amended to read as follows:

135B.15 PENALTIES. Any person establishing, conducting, managing, or operating any hospital without a license shall be guilty of a serious misdemeanor ~~and upon conviction there-~~

~~of shall be fined not less than one hundred dollars or more than five hundred dollars~~, and each day of continuing violation after conviction shall be considered a separate offense.

Sec. 139. Section one hundred thirty-five C point twenty-one (135C.21), Code 1975, is amended to read as follows:

135C.21 PENALTY. Any person establishing, conducting, managing, or operating any health care facility without a license shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months, or both~~. Each day of continuing violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense. Any such person establishing, conducting, managing or operating any health care facility without a license may be by any court of competent jurisdiction temporarily or permanently restrained therefrom in any action brought by the state.

Sec. 140. Section one hundred thirty-five D point eighteen (135D.18), Code 1975, is amended to read as follows:

135D.18 PENALTY. Any person violating any provision of this chapter shall be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 141. Section one hundred thirty-seven point twenty-one (137.21), Code 1975, is amended to read as follows:

137.21 PENALTIES. Any person who violates any provision of this chapter or the rules of a local board or any lawful order of said board, its officers, or authorized agents shall be guilty of a simple misdemeanor ~~and shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days~~. Each additional day of neglect or failure to comply with such provision, rule or lawful order after notice of violation by the

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local board shall constitute a separate offense.

Sec. 142. Section one hundred thirty-eight point nineteen (138.19), Code 1975, is amended to read as follows:

138.19 PENALTIES. Any person failing to comply with any provision of this chapter, or with any rule or order issued pursuant to the provisions of this chapter, or interfering with, impeding, or obstructing in any manner, the commissioner, department, or any of its employees in the performance of official duties pursuant to this chapter, shall be guilty of a simple misdemeanor ~~and fined in an amount of not less than fifty dollars nor more than one hundred dollars for each such offense~~. If any person further fails to comply with any provisions of this chapter, or with any rule or order issued pursuant to the provisions of this chapter, the commissioner shall enforce such provision, rule, or order by filing an action for injunction against such person in the district court in the county wherein such violation or violations occur.

Sec. 143. Section one hundred thirty-nine point thirty-two (139.32), Code 1975, is amended to read as follows:

139.32 PENALTY. Any person who knowingly violates any provision of this chapter, or of the rules of the state department or the local board, or any lawful order, written or oral, of said department or board, or of their officers or authorized agents, shall be guilty of a simple misdemeanor.

Sec. 144. Section one hundred forty point fifteen (140.15), Code 1975, is amended to read as follows:

140.15 PENALTY. Any person violating any of the provisions of this chapter shall be ~~punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period not to exceed thirty days, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 145. Section one hundred forty-one point six (141.6), Code 1975, is amended to read as follows:

141.6 PENALTY. A person who violates the confidentiality

provision of this chapter shall be guilty of a simple misdemeanor ~~and shall, upon conviction, be punished by a fine of not more than one hundred dollars~~.

Sec. 146. Section one hundred forty-two point five (142.5), Code 1975, is amended to read as follows:

142.5 DISPOSITION AFTER DISSECTION. The remains of every body received for scientific purposes under this chapter shall be decently buried or cremated after it has been used for said purposes, and failure to do so shall be a simple misdemeanor.

Sec. 147. Section one hundred forty-two point eight (142.8), Code 1975, is amended to read as follows:

142.8 PURPOSE FOR WHICH BODY USED. The dead bodies delivered under this chapter shall be used only within the limits of this state for the purpose of scientific, medical, and surgical study, and no person shall remove the same beyond the limits of this state or in any manner traffic therein. Any person who shall violate this section shall be ~~punished by imprisonment for a term not exceeding one year in the county jail~~ guilty of a serious misdemeanor.

This section shall not apply to bodies given under authority of the Uniform Anatomical Gift Act.

Sec. 148. Section one hundred forty-two point nine (142.9), Code 1975, is amended to read as follows:

142.9 FAILURE TO DELIVER DEAD BODY. Any person having the custody of the dead body of any human being which is required to be delivered for scientific purposes by this chapter, who shall fail to notify the state department of the existence of such body, or fail to deliver the same in accordance with the instruction of the department, shall be ~~punished by a fine not exceeding five hundred dollars~~ guilty of a simple misdemeanor.

Sec. 149. Section one hundred forty-two point ten (142.10), Code 1975, is amended to read as follows:

142.10 USE WITHOUT PROPER RECORD. Any physician or mem-

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ber of the instructional staff of any college or school who uses, or permits others under his charge to use the dead body of a human being for the purpose of medical or surgical study without the record required in section 142.6 having been made, or who shall refuse to allow any peace officer or relative of the deceased to inspect said record or body, shall be ~~punished by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both~~ guilty of a serious misdemeanor.

Sec. 150. Section one hundred forty-two point eleven (142.11), Code 1975, is amended to read as follows:

142.11 PENALTIES. Any person who shall receive or deliver any dead body of a human being knowing that any of the provisions of this chapter have been violated, shall be ~~imprisoned in the penitentiary not more than two years, or fined not exceeding twenty-five hundred dollars, or both~~ guilty of an aggravated misdemeanor.

Sec. 151. Section one hundred forty-four point fifty-two (144.52), unnumbered paragraph one (1), Code 1975, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Any person committing any of the following acts is guilty of a serious misdemeanor:

Sec. 152. Section one hundred forty-four point fifty-three (144.53), unnumbered paragraph one (1), Code 1975, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Any person committing any of the following acts is guilty of a simple misdemeanor:

Sec. 153. Section one hundred forty-seven point seventy-four (147.74), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person who falsely holds himself out by the use of any professional title or abbreviation, either in writing, cards, signs, circulars, or advertisements, to be a prac-

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titioner of a system of the healing arts other than the one under which he holds a license or who fails to use the following designations shall be guilty of a simple misdemeanor ~~and shall be fined not less than twenty-five dollars, nor more than one hundred dollars, or be sentenced to thirty days in jail~~.

Sec. 154. Section one hundred forty-seven point eighty-four (147.84), Code 1975, is amended to read as follows:

147.84 FORGERIES. Any person who shall file or attempt to file with the state department of health any false or forged diploma, or certificate or affidavit of identification or qualification, shall be guilty of ~~forgery and punished accordingly~~ a fraudulent practice.

Sec. 155. Section one hundred forty-seven point eighty-five (147.85), Code 1975, is amended to read as follows:

147.85 FRAUD. Any person who shall present to the department a diploma or certificate of which he is not the rightful owner, for the purpose of procuring a license, or who shall falsely personate anyone to whom a license has been issued by said department shall be ~~punished as provided in section 147.86~~ guilty of a serious misdemeanor.

Sec. 156. Section one hundred forty-seven point eighty-six (147.86), Code 1975, is amended to read as follows:

147.86 PENALTIES. Any person violating any provision of this or the following chapters of this title, except insofar as said provisions apply or relate to or affect the practice of pharmacy, of cosmetology, and of barbering, shall be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 157. Section one hundred forty-seven point one hundred thirteen (147.113), Code 1975, is amended to read as follows:

147.113 VIOLATIONS. Any person failing to make the re-

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port required herein shall be guilty of a simple misdemeanor ~~and upon conviction shall be fined not to exceed one hundred dollars~~.

Sec. 158. Section one hundred forty-seven point one hundred thirty (147.130), Code 1975, is amended to read as follows:

147.130 MISDEMEANOR. It shall be a serious misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless he is the holder of a license as a nursing home administrator issued in accordance with the provisions of this division.

Sec. 159. Section one hundred forty-seven point one hundred thirty-four (147.134), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 160. Section one hundred fifty-four A point six (154A.6), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 161. Section one hundred fifty-four A point twenty-seven (154A.27), Code 1975, is amended to read as follows:

154A.27 PENALTIES. A violation of any provisions of this chapter is ~~punishable, upon conviction, by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days in the county jail, or by both such fine~~

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~~and imprisonment~~ a simple misdemeanor.

Sec. 162. Section one hundred fifty-five point twenty-six (155.26), Code 1975, is amended to read as follows:

155.26 POSSESSION OF PRESCRIPTION DRUGS. Any person found in possession of a drug or medicine limited by law to dispensation by a prescription, unless such drug or medicine was so lawfully dispensed, shall be deemed guilty of ~~violating the provisions of this section, and upon conviction thereof, shall be fined not more than one thousand dollars or be imprisoned in the county jail for not more than one year, or both~~ a serious misdemeanor. This section shall not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatrist or nurse acting under the direction of a physician or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier or messenger when transporting such drug or medicine in the same unbroken package in which the drug or medicine was delivered to him for transportation.

Sec. 163. Section one hundred fifty-five point twenty-seven (155.27), Code 1975, is amended to read as follows:

155.27 PENALTY. Any person violating any of the provisions of this chapter or any chapter pertaining to or affecting the practice of pharmacy for which a specific penalty is not otherwise provided, shall be deemed guilty of a simple misdemeanor~~, and upon conviction thereof, shall be fined not more than five hundred dollars or shall be imprisoned in the county jail for not more than six months, or both~~.

Sec. 164. Section one hundred fifty-five point thirty (155.30), unnumbered paragraphs two (2) and three (3), Code 1975, are amended to read as follows:

If the prescription drug is a controlled substance as defined in section 204.101, subsection 6, the person shall be punished pursuant to section 204.401, subsection 1, and section 204.411. If the prescription drug is not a controlled substance, the person shall upon conviction of a first of-

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fense be ~~fined not more than one thousand dollars or be imprisoned in the county jail for not more than one year, or both~~ guilty of a serious misdemeanor. For a second offense, or if in case of a first conviction of violation of any provision of section 155.29 or of violation of any provision of this section, the offender shall previously have been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~upon conviction~~ shall be ~~fined not more than two thousand dollars and be imprisoned in the state penitentiary not less than two or more than five years~~ guilty of an aggravated misdemeanor. For a third or subsequent offense in violation of this section or in violation of section 155.29, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~upon conviction~~ shall be ~~fined not more than five thousand dollars and be imprisoned in the state penitentiary not less than five or more than ten years~~ guilty of a class "D" felony.

Any person violating any provision of this chapter by selling, giving away, or administering any prescription drug to a minor shall ~~upon conviction thereof be punished by imprisonment in the state penitentiary for not less than five or more than twenty years~~ be guilty of a class "C" felony.

Sec. 165. Section one hundred fifty-six point twelve (156.12), Code 1975, is amended to read as follows:

156.12 FUNERAL DIRECTORS AND EMBALMERS--SOLICITATION OF BUSINESS--PENALTY. Every funeral director or embalmer, or any person acting for him, who pays or causes to be paid, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business for such funeral director or embalmer, and every person who accepts or offers to accept any money or other thing of value as a commission or gratuity from a funeral director or em-

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balmer in order to secure business for him shall be deemed guilty of a simple misdemeanor~~,-and-upon-conviction-thereof shall-be-fined-not-more-than-five-hundred-dollars-or-shall be-imprisoned-in-the-county-jail-for-not-less-than-thirty days,-or-both~~; provided that nothing herein contained shall be construed as prohibiting any person, firm, co-operative burial association or corporation, subject to the provisions of this chapter, from using legitimate and honest advertising.

Sec. 166. Section one hundred fifty-nine point seventeen (159.17), Code 1975, is amended to read as follows:

159.17 INTERFERENCE WITH DEPARTMENT. Any person resisting or interfering with the department, its employees or authorized agents, in the discharge of any duty imposed by law shall be guilty of a simple misdemeanor.

Sec. 167. Section one hundred sixty-two point thirteen (162.13), unnumbered paragraphs one (1) and two (2), Code 1975, are amended to read as follows:

Operation of a pound, animal shelter, pet shop, boarding kennel, commercial kennel, hobby kennel or public auction, as defined in section 162.2, or dealing in dogs or cats, or both, either as a dealer or a commercial breeder, without a currently valid license or a certificate of registration shall constitute a simple misdemeanor and each day of such operation shall constitute a separate offense. ~~Upon conviction,-a-violator-shall-be-fined-not-more-than-one-hundred dollars-or-imprisoned-in-the-county-jail-not-more-than-thirty days.~~

Failure of any person licensed or registered to adequately house, feed or water dogs or cats, or both, in his possession or custody or failure of any operator of a licensed pet shop to adequately house, feed, or water any vertebrate animal shall constitute a simple misdemeanor. ~~Upon-conviction,-a violator-shall-be-fined-not-more-than-one-hundred-dollars or-imprisoned-in-the-county-jail-not-more-than-thirty-days.~~ Such animals shall be subject to seizure and impoundment and

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may be sold or destroyed by euthanasia at the discretion of the secretary and such failure shall also constitute grounds for revocation of license after public hearing. The commission of an act declared to be an unlawful practice under section 713.24, by any person licensed under this chapter shall constitute grounds for revocation of license.

Sec. 168. Section one hundred sixty-two point fifteen (162.15), Code 1975, is amended to read as follows:

162.15 VIOLATION BY ANIMAL WARDEN. Violation of any provision of this chapter which relates to the seizing, impoundment, and custody of an animal by an animal warden shall constitute a simple misdemeanor and each animal handled in violation shall constitute a separate offense. ~~Upon conviction, a violator shall be fined not more than one hundred dollars or imprisoned in the county jail not more than thirty days.~~

Sec. 169. Section one hundred sixty-three point eighteen (163.18), Code 1975, is amended to read as follows:

163.18 FALSE REPRESENTATION. Any person who knowingly makes any false representation as to the purpose for which a shipment of animals is being or will be made, with intent to avoid or prevent an inspection of such animals for the purpose of determining whether the animals are free from disease, shall be guilty of a simple misdemeanor ~~and punished as provided in this chapter~~.

Sec. 170. Section one hundred sixty-three point twenty-one (163.21), Code 1975, is amended to read as follows:

163.21 PENALTIES. Any person who shall violate any provision of this chapter or any rule adopted thereunder by the department shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year~~ guilty of a simple misdemeanor.

Sec. 171. Section one hundred sixty-three point twenty-three (163.23), Code 1975, is amended to read as follows:

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163.23 FALSE CERTIFICATES OF HEALTH--PENALTY. Any veterinarian issuing a certificate of health for an animal knowing that the animal described therein was not the animal from which the tests were made as a basis for the certificate or who otherwise falsifies any such certificate shall be guilty of a ~~misdemeanor-and-punished-as-provided-in-this-chapter~~ fraudulent practice.

Sec. 172. Section one hundred sixty-three point twenty-four (163.24), Code 1975, is amended to read as follows:

163.24 USING FALSE CERTIFICATE. Any person, firm, or corporation importing, exporting, or transporting within this state or selling or offering for sale any animal for which a certificate of health has been issued and who uses such certificate in connection with any of said transactions knowing that the animal described in said certificate was not the animal from which the tests were made as a basis for the certificate or who knowingly uses any altered or otherwise false certificate in connection with any of said transactions shall be guilty of a ~~misdemeanor-and-punished-as-provided-in-this-chapter~~ fraudulent practice.

Sec. 173. Section one hundred sixty-three point twenty-five (163.25), Code 1975, is amended to read as follows:

163.25 ALTERING CERTIFICATE. Any person, firm, or corporation removing or altering on any animal, tested or being tested for disease, any tag or mark of identification authorized by the department or inserted by any qualified veterinarian or altering any certificate of vaccination by one authorized to vaccinate animals shall be guilty of a ~~misdemeanor-and-punished-as-provided-in-this-chapter~~ fraudulent practice.

Sec. 174. Section one hundred sixty-three point twenty-nine (163.29), Code 1975, is amended to read as follows:

163.29 PENALTY. Any person, firm, partnership, or corporation violating the provisions of this division shall~~,~~ ~~upon-conviction-thereof,~~ be ~~fined-not-less-than-one-hundred~~

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~~dollars-and-not-to-exceed-five-hundred-dollars~~ guilty of a simple misdemeanor. Each day the provisions of section 163.27, or any rule made pursuant thereto, is violated shall be a separate offense.

Sec. 175. Section one hundred sixty-three A point ten (163A.10), Code 1975, is amended to read as follows:

163A.10 PENALTY. Any person who shall violate any provision of this chapter or any rule adopted thereunder by the department of agriculture shall be ~~punished-by-a-fine-of-not less-than-one-hundred-dollars-nor-more-than-one-thousand-dollars,-or-by-imprisonment-in-the-county-jail-for-not-more-than one-year~~ guilty of a serious misdemeanor.

Sec. 176. Section one hundred sixty-four point thirty-one (164.31), Code 1975, is amended to read as follows:

164.31 PENALTIES. Any person found guilty of violating the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and-punished-by-a-fine-not-to-exceed-one hundred-dollars-on-first-offense,-two-hundred-dollars-on second-offense,-and-three-hundred-dollars-on-the-third-and all-subsequent-offenses~~.

Sec. 177. Section one hundred sixty-five point twenty-seven (165.27), Code 1975, is amended to read as follows:

165.27 PENALTY. Any owner of dairy or breeding cattle in the state who prevents, hinders, obstructs, or refuses to allow a veterinarian authorized by the department of agriculture to conduct such tests for tuberculosis on his cattle, shall be deemed guilty of a simple misdemeanor ~~and shall-be-punished-by-a-fine-of-not-more-than-one-hundred dollars,-nor-less-than-twenty-five-dollars~~.

Sec. 178. Section one hundred sixty-five point thirty-three (165.33), Code 1975, is amended to read as follows:

165.33 PENALTY. Any person found guilty of violating the provisions of section 165.32 shall be deemed guilty of a simple misdemeanor ~~and-punished-by-a-fine-of-not-to-exceed-one-hundred-dollars-nor-less-than-twenty-five-dollars~~.

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Sec. 179. Section one hundred sixty-six point thirty-eight (166.38), Code 1975, is amended to read as follows:

166.38 COMPENSATION. No licensed veterinarian shall receive, directly or indirectly, any compensation of any kind for the handling, sale, or use of any biological products, other than his charges for administering the same, unless he makes known in writing the amount of such compensation, if requested to do so by the person using biological products. Any veterinarian violating this section shall ~~forfeit his license to practice and the same shall not be renewed for a period of one year~~ be guilty of a simple misdemeanor.

Sec. 180. Section one hundred sixty-six A point fourteen (166A.14), Code 1975, is amended to read as follows:

166A.14 PENALTY. Any person, firm or partnership or corporation violating the provisions of this chapter shall ~~upon conviction thereof be fined not less than one hundred dollars and not to exceed five hundred dollars~~ be guilty of a simple misdemeanor.

Sec. 181. Section one hundred sixty-seven point nineteen (167.19), Code 1975, is amended to read as follows:

167.19 PENALTY. The violation of any of the provisions of this chapter or any rule adopted thereunder by the department shall be ~~punishable by a fine of not less than five dollars nor more than one hundred dollars or by imprisonment in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 182. Section one hundred sixty-eight point eight (168.8), Code 1975, is amended to read as follows:

168.8 PUNISHMENT. Any person, partnership, corporation, company, firm, society, or association who violates any provision of this chapter shall be guilty of a simple misdemeanor ~~and shall be punished by a fine not exceeding one hundred dollars~~.

Sec. 183. Section one hundred sixty-nine point forty-three (169.43), Code 1975, is amended to read as follows:

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169.43 FORGERIES. Any person who shall file or attempt to file with the department of agriculture any false or forged diploma, or certificate or affidavit of identification or qualification, shall be guilty of ~~forgery and punished accordingly~~ a fraudulent practice.

Sec. 184. Section one hundred sixty-nine point forty-five (169.45), Code 1975, is amended to read as follows:

169.45 PENALTY. Any person who violates any provision of this chapter shall be guilty of a simple misdemeanor.

Sec. 185. Section one hundred sixty-nine point fifty-six (169.56), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 186. Section one hundred seventy point thirty-eight (170.38), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The state fire marshal shall adopt, amend, promulgate, and enforce such rules and standards relating to fire protection and fire safety in hotels, restaurants and food establishments, but such rules shall be promulgated only after public hearing. Any person, firm or corporation violating any of said rules of said fire marshal shall be deemed guilty of a simple misdemeanor, ~~and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars,~~ and each day of a continuing violation after conviction shall be considered a separate offense.

Sec. 187. Section one hundred seventy point forty-nine (170.49), Code 1975, is amended to read as follows:

170.49 PENALTY. Any person who shall violate any provi-

sion of this chapter shall be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 188. Section one hundred seventy-one point sixteen (171.16), Code 1975, is amended to read as follows:

171.16 PENALTIES. Any person violating any of the provisions of this chapter shall be ~~punished for the first offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, and for the second offense by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 189. Section one hundred seventy-two point eleven (172.11), Code 1975, is amended to read as follows:

172.11 PENALTIES. Any person who shall violate any provision of this chapter shall be ~~fined not less than twenty-five dollars nor more than one hundred dollars or be imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 190. Section one hundred seventy-two A point nine (172A.9), Code 1975, is amended to read as follows:

172A.9 PENALTY. Any person violating any provision of this chapter shall be ~~punished by a fine of not less than five hundred dollars nor more than two thousand five hundred dollars, or imprisonment in the county jail for not more than six months, or be punished by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 191. Section one hundred seventy-four point seven (174.7), Code 1975, is amended to read as follows:

174.7 REFUSAL TO REMOVE OBSTRUCTIONS. Any person owning, occupying, or using any such obstruction who shall refuse or fail to remove the same when ordered to do so by the management shall be ~~liable to a fine of not less than five dollars nor more than one hundred dollars for each such offense~~

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guilty of a simple misdemeanor.

Sec. 192. Section one hundred seventy-four point twenty-one (174.21), Code 1975, is amended to read as follows:

174.21 VIOLATIONS--PENALTY. Any person convicted of a violation of section 174.20 shall be ~~imprisoned in the penitentiary for a period of not more than three years, or in the county jail for not more than one year, and be fined in a sum not exceeding one thousand dollars~~ guilty of a fraudulent practice.

Sec. 193. Section one hundred seventy-six point fourteen (176.14), Code 1975, is amended to read as follows:

176.14 DIVIDENDS--DIVERSION OF FUNDS. No dividend shall ever be declared by the association and any diversion of the funds or property of such organization to any other purpose than that for which such organization was incorporated shall constitute ~~larceny and be punished accordingly~~ theft.

Sec. 194. Section one hundred seventy-seven A point sixteen (177A.16), Code 1975, is amended to read as follows:

177A.16 VIOLATIONS. Any person, copartnership, association or corporation, or any combination of individuals, violating any provision of a quarantine promulgated under the authority of this chapter, or of any rules issued supplemental thereto, shall be guilty of a simple misdemeanor ~~and upon conviction thereof be punished by imprisonment in the county jail not exceeding thirty days or by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense~~.

Sec. 195. Section one hundred seventy-seven A point eighteen (177A.18), Code 1975, is amended to read as follows:

177A.18 VIOLATIONS. Any person who shall violate any provision or requirement of this chapter, or of the rules made or of any notice given pursuant thereto, or who shall forge, counterfeit, deface, destroy, or wrongfully use, any certificate provided for in this chapter, or in the rules and regulations made pursuant thereto, shall be deemed guilty

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of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars or by imprisonment for not more than thirty days.~~

Sec. 196. Section one hundred seventy-seven A point nineteen (177A.19), subsection four (4), Code 1975, is amended to read as follows:

4. The ~~penalties~~ procedures provided in section 177A.17 and all other applicable provisions of sections 177A.5 to 177A.18 shall govern and apply to the enforcement of this section.

Sec. 197. Section one hundred seventy-nine point eleven (179.11), Code 1975, is amended to read as follows:

179.11 PENALTIES. ~~Any~~ Except as otherwise provided, any person who shall violate or aid in the violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail not to exceed thirty days.~~ All prosecutions for alleged violations of the provisions of this chapter shall be by the county attorney of the county in which such alleged violation occurred and shall be instituted and conducted under the direction and authority of the attorney general of the state.

Sec. 198. Section one hundred eighty-one point twenty (181.20), Code 1975, is amended to read as follows:

181.20 MISDEMEANORS. Any person who shall violate or assist in the violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor.

Sec. 199. Section one hundred eighty-four A point fifteen (184A.15), Code 1975, is amended to read as follows:

184A.15 MISDEMEANOR. It is a simple misdemeanor for any person to willfully violate any provision of this chapter, or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the council

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or secretary.

Sec. 200. Section one hundred eighty-five point thirty-one (185.31), Code 1975, is amended to read as follows:

185.31 PENALTY. It is a simple misdemeanor for any person to willfully violate any provision of this chapter or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the secretary.

Sec. 201. Section one hundred eighty-seven point seven (187.7), Code 1975, is amended to read as follows:

187.7 UNLAWFUL USE OF BRAND. It shall be unlawful to use any brand for branding any horses, cattle, sheep, mules, or asses unless the brand has been recorded as provided by this chapter. Hot brands and cryo-brands, consisting of Arabic numerals only, may be used in conjunction with recorded brands for within the herd identification and as such shall not be recorded; and when so used shall not be evidence of ownership. Anyone convicted of violating this section shall be ~~fined a sum not to exceed one hundred dollars or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 202. Section one hundred eighty-seven point fourteen (187.14), Code 1975, is amended to read as follows:

187.14 TAMPERING WITH BRAND. Any person who shall brand, attempt to brand, or cause to be branded the animals of another, or who shall efface, deface, or obliterate or attempt to efface, deface, or obliterate any brand upon any animal or animals of another, or who shall brand, attempt to brand, or cause to be branded the recorded brand of another on any animal shall be ~~imprisoned in the penitentiary not to exceed two years or fined not to exceed one thousand dollars, or both~~ guilty of a fraudulent practice.

Sec. 203. Section one hundred eighty-eight point forty (188.40), Code 1975, is amended to read as follows:

188.40 PENALTY AGAINST FINDER. If any person shall sell,

trade, or take out of the state any estray before the legal title shall have vested in him, he shall forfeit to the owner double its value, and shall also be guilty of a simple misdemeanor.

Sec. 204. Section one hundred eighty-eight point forty-six (188.46), Code 1975, is amended to read as follows:

188.46 PENALTY. Any officer who fails to perform the duties enjoined upon him in this chapter in relation to estrays, shall be ~~fined not less than five dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 205. Section one hundred eighty-nine point twenty-one (189.21), Code 1975, is amended to read as follows:

189.21 PENALTY. Unless otherwise provided, any person violating any provision of this title, or any rule made by the department and promulgated under the authority of said department, shall be ~~punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail not to exceed thirty days, and on a third conviction for the same offense may be restrained by injunction from operating such place of business~~ guilty of a simple misdemeanor.

Sec. 206. Section one hundred eighty-nine A point seventeen (189A.17), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any provisions of this chapter for which no other criminal penalty is provided shall ~~upon conviction be subject to imprisonment in the county jail for not more than one year, or a fine of not more than one thousand dollars, or both such imprisonment and fine~~ be guilty of a simple misdemeanor; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated, except as defined in section 189A.2, subsection 15, paragraph "h" such person shall be ~~subject to imprisonment in the penitentiary for not more than three years or a fine of not more than ten thousand dollars~~

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~~or both~~ guilty of a fraudulent practice.

Sec. 207. Section one hundred eighty-nine A point twenty (189A.20), Code 1975, is amended by striking unnumbered paragraph one (1).

Sec. 208. Section one hundred ninety-one point three (191.3), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person violating any provision of this section shall ~~upon conviction or plea of guilty be punished, for the first offense by a fine of one hundred dollars; for the second offense by a fine of three hundred dollars; for the third offense by a fine of five hundred dollars~~ be guilty of a simple misdemeanor and the suspension for one year of all licenses issued by the state of Iowa for the public eating place in which said violation occurred.

Sec. 209. Section one hundred ninety-one point five (191.5), Code 1975, is amended to read as follows:

191.5 ADVERTISING OLEOMARGARINE--RESTRICTIONS. No person, by himself, or agent, shall, by any means whatever, directly or indirectly, advertise or represent by statement, printing, writing, circular, poster, design, device, grade designation, advertisement, symbol, sound, or any combination thereof, that oleo, oleomargarine or margarine, or any brand of oleo, oleomargarine or margarine, is a dairy product for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase for consumption of oleo, oleomargarine or margarine, or any brand thereof. Whoever shall violate this provision shall be deemed guilty of a simple misdemeanor.

Sec. 210. Section one hundred ninety-one A point twelve (191A.12), Code 1975, is amended to read as follows:

191A.12 PENALTY. Any person who violates any provision of this chapter shall, upon conviction, be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 211. Section one hundred ninety-two point sixty-six

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(192.66), subsection eight (8), Code 1975, is amended to read as follows:

8. Any person violating any provisions of this section shall be ~~punished by a fine of not more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 212. Section one hundred ninety-two A point nineteen (192A.19), Code 1975, is amended to read as follows:

192A.19 REPORTS AND ANSWERS TO DEPARTMENT. Whenever the department has reason to believe that any distributor or retailer or processor may be in possession of information relevant to an investigation by it of suspected violations of the provisions of this chapter, the secretary may require such person to file with him in such form as he may prescribe special reports or answers in writing to specific questions furnishing such information. Such reports and answers shall be made under oath or otherwise as the secretary may prescribe and shall be filed with him within such reasonable period as he may prescribe. Any person who fails without lawful cause to file such reports or answers in writing within the period prescribed or shall willfully make or cause to be made any false statements in any such report or answer in writing shall be guilty of a simple misdemeanor ~~and upon conviction thereof fined not less than five hundred dollars nor more than one thousand dollars~~.

Sec. 213. Section one hundred ninety-four point twenty (194.20), Code 1975, is amended to read as follows:

194.20 PENALTY. Any person who, by himself or by his agent or employee, willfully violates any requirement of this chapter shall be ~~fined not less than fifty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 214. Section one hundred ninety-five point twenty-seven (195.27), Code 1975, is amended to read as follows:

195.27 PENALTIES. Any person who, by himself or by his agent or employee, willfully violates any requirement of this chapter shall be ~~fined not less than twenty-five dollars nor~~

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~~more-than-one-hundred-dollars~~ guilty of a simple misdemeanor.

Sec. 215. Section one hundred ninety-six point eighteen (196.18), Code 1975, is amended to read as follows:

196.18 PENALTY. Any person found guilty of any violation of this chapter shall~~,-upon-conviction-for-the-first offense,-be-fined-twenty-five-dollars;-for-the-second-offense, he-shall-be-fined-one-hundred-dollars;-and-for-the-third-and subsequent-offenses,-he-shall-be-fined-two-hundred-dollars~~ be deemed to have committed a simple misdemeanor. In addition to such fines, the court for the third offense shall suspend his license for thirty days; and for the fourth and any subsequent offense, such person's license shall be revoked for a period of one year.

Sec. 216. Section one hundred ninety-six A point twenty-three (196A.23), Code 1975, is amended to read as follows:

196A.23 PENALTY. Any person who willfully violates any provision of this chapter, willfully gives a false report, statement, or record required by the council, or willfully fails to furnish or render any report, statement or record required by the secretary shall be guilty of a simple misdemeanor.

Sec. 217. Section one hundred ninety-seven point six (197.6), Code 1975, is amended to read as follows:

197.6 VIOLATIONS. Any person who shall violate the provisions of this chapter shall, for each offense, be deemed guilty of a simple misdemeanor ~~and-punishable-as-such~~.

Sec. 218. Section one hundred ninety-eight point thirteen (198.13), subsection one (1), Code 1975, is amended to read as follows:

1. Any person convicted of violating any of the provisions of this chapter or who shall impede, hinder or otherwise prevent, or attempt to prevent, said secretary or his authorized agent in performance of his duty in connection with the provisions of this chapter, shall be guilty of a simple misdemeanor ~~and-shall-be-fined-not-less-than-twenty-~~

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~~five-dollars-or-more-than-one-hundred-dollars-for-the-first violation,-and-not-less-than-fifty-dollars-or-more-than-three hundred-dollars-for-a-subsequent-violation.~~

Sec. 219. Section one hundred ninety-nine point thirteen (199.13), Code 1975, is amended to read as follows:

199.13 PENALTY. Every violation of the provisions of this chapter shall be deemed a simple misdemeanor~~,-punishable by-a-fine-of-not-more-than-two-hundred-fifty-dollars~~. The department of agriculture through its duly authorized agent or agents, may institute proceedings in a court of competent jurisdiction to enforce the provisions of this chapter.

Sec. 220. Section two hundred point eighteen (200.18), subsection two (2), Code 1975, is amended to read as follows:

2. Any person ~~convicted-of~~ violating any provision of this chapter or the rules and regulations issued thereunder shall be ~~punished-by-a-fine-of-not-less-than-one-hundred-dollars-nor-more-than-two-hundred-fifty-dollars~~ guilty of a simple misdemeanor.

Sec. 221. Section two hundred one point eleven (201.11), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever sells, offers for sale, or exposes for sale or distribution any bulk agricultural lime, limestone, or aglime without complying with the provisions of this chapter, or permits any certification to accompany or be printed or stamped on any bill of lading, scale ticket, ticket, or delivery receipt or other instrument of sale, shipping or delivery, stating that the agricultural lime, limestone, or aglime contains a different number of pounds of ECCE than certified as provided in this chapter, or who shall adulterate any agricultural lime, limestone, or agline with foreign mineral matter or other foreign substances, or who shall adulterate the same with any substance injurious to the growth of plants, or make any false report, shall be deemed guilty

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of a simple misdemeanor. ~~On conviction thereof, such person shall be fined not less than fifty dollars nor more than one hundred dollars.~~ The secretary of agriculture may revoke the license of any person so convicted.

Sec. 222. Section two hundred one point fourteen (201.14), Code 1975, is amended to read as follows:

201.14 MISDEMEANOR. Any person who shall obstruct the secretary of agriculture or his agents or representatives when in the discharge of any duty or duties prescribed by this chapter shall be deemed to be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for the first offense, and for each subsequent offense by a fine of not less than fifty dollars nor more than thirty days in jail, or by both such fine and imprisonment.~~

Sec. 223. Section two hundred three A point five (203A.5), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and shall on conviction thereof be subject to imprisonment for not more than six months in the county jail or a fine of not more than five hundred dollars, or both such imprisonment and fine;~~ but if the violation is committed after a conviction of such person under this section has become final, such person shall be ~~subject to imprisonment for not more than one year in the county jail, or a fine of not more than one thousand dollars, or both such imprisonment and fine~~ guilty of an aggravated misdemeanor.

Sec. 224. Section two hundred four point four hundred one (204.401), subsection one (1), paragraphs a, b, c, and d, Code 1975, are amended to read as follows:

a. A substance classified in schedule I or II which is a narcotic drug, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed ten years and by a fine of not more than~~

~~two-thousand-dollars~~ class "C" felony.

b. Any other controlled substance classified in schedules I, II, or III, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by-imprisonment-in-the-penitentiary for-not-to-exceed-five-years-and-by-a-fine-of-not-more-than one-thousand-dollars~~ class "D" felony.

c. A substance classified in schedule IV, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by imprisonment-in-the-county-jail-for-not-to-exceed-one-year or-by-a-fine-of-not-more-than-five-hundred-dollars,-or-by both-such-imprisonment-and-fine~~ serious misdemeanor.

d. A substance classified in schedule V, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by imprisonment-in-the-county-jail-for-not-to-exceed-six-months or-by-a-fine-of-not-more-than-two-hundred-fifty-dollars,-or both-such-imprisonment-and-fine~~ simple misdemeanor.

Sec. 225. Section two hundred four point four hundred one (204.401), subsection two (2), paragraphs a, b, c, and d, Code 1975, are amended to read as follows:

a. A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a ~~public-offense and-upon-conviction-shall-be-punished-by-imprisonment-in-the penitentiary-for-not-to-exceed-ten-years,-and-by-a-fine-of not-more-than-two-thousand-dollars~~ class "C" felony.

b. Any other counterfeit substance classified in schedules I, II, or III, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by-imprisonment-in-the-penitentiary for-not-to-exceed-five-years-and-by-a-fine-of-not-more-than one-thousand-dollars~~ class "D" felony.

c. A counterfeit substance classified in schedule IV, is guilty of a ~~public-offense-and-upon-conviction-shall-be punished-by-imprisonment-in-the-county-jail-for-not-to-exceed-one-year-or-by-a-fine-of-not-more-than-five-hundred-dollars,-or-by-both-such-imprisonment-and-fine~~ serious misdemeanor.

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d. A counterfeit substance classified in schedule V, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by-imprisonment-in-the-county-jail-for-not-to-exceed six-months-or-by-a-fine-of-not-more-than-two-hundred-fifty dollars,-or-by-both-such-imprisonment-and-fine~~ simple misdemeanor.

Sec. 226. Section two hundred four point four hundred two (204.402), subsection two (2), paragraphs a and b, Code 1975, are amended to read as follows:

a. Of a violation of paragraphs "a", "b", "d", or "e" shall be ~~punished-by-imprisonment-in-the-penitentiary-for not-to-exceed-one-year-or-by-a-fine-of-not-more-than-one-thousand-dollars,-or-both-such-imprisonment-and-fine~~ an aggravated misdemeanor.

b. Of a violation of paragraph "c" shall be ~~punished-by a-fine-of-not-more-than-five-hundred-dollars-if-the-conviction is-the-defendant's-first-under-this-chapter-or-under-any-state or-federal-statute-relating-to-narcotic-drugs,-marijuana, or-stimulant,-depressant,-or-hallucinogenic-drugs,-and-by imprisonment-in-the-penitentiary-for-not-to-exceed-one-year, or-by-a-fine-of-not-more-than-one-thousand-dollars,-or-both such-imprisonment-and-fine-if-the-defendant-has-previously been-so-convicted~~ a serious misdemeanor.

Sec. 227. Section two hundred four point four hundred three (204.403), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who violates this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate this section, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished by-imprisonment-in-the-penitentiary-for-not-to-exceed-one year-and-by-a-fine-of-not-more-than-one-thousand-dollars~~ serious misdemeanor.

Sec. 228. Section two hundred four point four hundred six (204.406), Code 1975, is amended to read as follows:

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204.406 DISTRIBUTION TO PERSONS UNDER AGE EIGHTEEN. Any person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing a substance listed in schedule I or II, which is a narcotic drug, to a person under eighteen years of age, shall be ~~punished by a fine and by a term of imprisonment not to exceed twice that authorized by section 204.401, subsection 1, paragraph "a"~~ guilty of a class "B" felony. Any person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing any other controlled substance listed in schedules I, II, or III, ~~IV, or V~~ to a person under eighteen years of age who is at least three years his junior shall be ~~punished by a fine not to exceed that authorized by section 204.401, subsection 1, paragraph "b" or "c", or by a term of imprisonment not to exceed one and one-half times that authorized by section 204.401, subsection 1, paragraph "b" or "c", or by both such fine and imprisonment~~ guilty of a class "C" felony. Any person who is eighteen years of age or over who violates section two hundred four point four hundred one (204.401), subsection one (1) of the Code by distributing any controlled substance listed in schedules four (IV) and five (V) to a person under eighteen years of age who is at least three years his junior shall be guilty of an aggravated misdemeanor.

Sec. 229. Section two hundred four point four hundred seven (204.407), unnumbered paragraphs three (3) and four (4), Code 1975, are amended to read as follows:

Any person who violates this section and where the controlled substance is any one other than marijuana is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed five years or by a fine of not to exceed ten thousand dollars or by both such imprisonment and fine~~ class "D" felony.

Any person who violates this section, and where the controlled substance is marijuana only, is guilty of a ~~public~~

~~offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year or by a fine of not to exceed one thousand dollars or by both such fine and imprisonment~~ serious misdemeanor.

Sec. 230. Section two hundred four point five hundred five (204.505), subsection four (4), Code 1975, is amended by striking the subsection and inserting in lieu thereof the following:

4. Property taken, detained, or forfeited under this chapter shall be delivered to a magistrate having jurisdiction. The magistrate, upon delivery being made to him, shall docket the proceeding and fix a day and hour for hearing which shall not be more than ten nor less than three days after delivery. Written notice of the time and place of hearing shall be personally served upon the person from whom the articles or things were taken. Notice shall be so served at least two full days prior to said hearing.

At the hearing the magistrate must proceed to take testimony in relation to the property seized and any person claiming an interest in the property, or in any part thereof, may appear and show specific and legal cause why the same shall not be forfeited. The magistrate may order the property lawfully seized to be confiscated and destroyed, or placed at the disposal of the department which may either use or sell the same, depositing the proceeds of such sale in the general fund.

However, controlled substances taken, detained, or forfeited shall be disposed of as provided by section two hundred four point five hundred six (204.506) of the Code. Such property shall not be subject to replevin.

Sec. 231. Section two hundred five point ten (205.10), Code 1975, is amended to read as follows:

205.10 FALSE REPRESENTATIONS. Any person who obtains any poison enumerated in section 205.5 under a false name or statement shall be guilty of a ~~misdemeanor and punished~~

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~~as provided in chapter 189~~ fraudulent practice.

Sec. 232. Section two hundred six point twenty-two (206.22), Code 1975, is amended to read as follows:

206.22 PENALTIES.

1. Any person violating section 206.11, subsection 1, paragraph "a", shall be guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars~~.

2. Any person violating any provision of this chapter other than section 206.11, subsection 1, paragraph "a", shall be guilty of a serious misdemeanor ~~and upon conviction shall be fined not more than five hundred dollars for the first offense and upon conviction for a subsequent offense shall be fined not more than one thousand dollars~~; provided, that any offense committed more than five years after a previous conviction shall be considered a first offense; and provided, further, that in any case where a registrant was issued a warning by the secretary pursuant to the provisions of this chapter, such registrant shall upon conviction of a violation of any provision of this chapter other than section 206.11, subsection 1, paragraph "a", be ~~fined not more than one thousand dollars, or imprisoned for not more than one year, or be subject to both such fine and imprisonment~~ guilty of a serious misdemeanor; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article, the registration of which has been terminated, may not again be registered unless the article, its labeling, and other material required to be submitted appear to the secretary to comply with all the requirements of this chapter.

3. Notwithstanding any other provisions of the section, in case any person, with intent to defraud, uses or reveals information relative to formulae of products acquired under authority of section 206.12, he shall be ~~fined not more than one thousand dollars or imprisoned for not more than one year,~~

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~~or both~~ guilty of a serious misdemeanor.

Sec. 233. Section two hundred eight A point eleven (208A.11), Code 1975, is amended to read as follows:

208A.11 PENALTY. If any person, partnership, corporation, or association shall violate the provisions of this chapter, such person, partnership, corporation or association shall be deemed guilty of a simple misdemeanor and, upon conviction thereof, ~~shall be punished according to the general provisions of title X and~~ the department may after due hearing cancel registration.

Sec. 234. Section two hundred ten point twenty-one (210.21), Code 1975, is amended to read as follows:

210.21 VIOLATIONS. It shall be unlawful for any person to manufacture, procure, or keep for the purpose of sale, offer or expose for sale, or sell bread in the form of loaves which are not of one of the weights specified in section 210.19 or violate the rules of the secretary of agriculture pertaining thereto. Any person who, by himself or by his servant, or agent, or as the servant or agent of another, shall violate any of the provisions of sections 210.19 to 210.25, shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars upon conviction in any court of competent jurisdiction, or by imprisonment for not more than thirty days, in the discretion of the court~~.

Sec. 235. Section two hundred eleven point two (211.2), Code 1975, is amended to read as follows:

211.2 VIOLATIONS. Any person or corporation failing to keep such record or refusing to offer the same for inspection when requested at a reasonable time by the peace officer, shall be guilty of a simple misdemeanor ~~and punished by a fine not exceeding one hundred dollars~~.

Sec. 236. Section two hundred fourteen point eight (214.8), Code 1975, is amended to read as follows:

214.8 PENALTY. Any weighmaster violating any of the pro-

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visions of sections 214.6 and 214.7, shall be guilty of a simple misdemeanor, ~~and punished as provided in chapter 189~~ and be liable to the person injured for all damages sustained.

Sec. 237. Section two hundred fourteen A point eleven (214A.11), Code 1975, is amended to read as follows:

214A.11 VIOLATIONS. Any person violating the provisions of this chapter shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of not to exceed one hundred dollars or imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 238. Section two hundred fifteen point twenty (215.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating any provision of this section is guilty of a simple misdemeanor ~~and, upon conviction shall be punished as provided by law~~.

Sec. 239. Section two hundred fifteen A point ten (215A.10), Code 1975, is amended to read as follows:

215A.10 PENALTY. Every person who uses or causes to be used a moisture-measuring device in commerce with knowledge that such device has not been inspected and approved by the department in accordance with the provisions of this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period not to exceed thirty days or both such fine and imprisonment~~.

Sec. 240. Section two hundred sixteen point two (216.2), Code 1975, is amended to read as follows:

216.2 PENALTY--EFFECTIVENESS OF ACT. A person knowingly having in his possession for the purpose of sale or offering for sale any prison-made goods, wares or merchandise manufactured in any state without the brand, mark or label required by law, or who removes or defaces such brand, mark or label shall be deemed guilty of a simple misdemeanor, ~~and upon conviction thereof shall be punished by a fine of not less~~

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~~than one hundred dollars nor more than five hundred dollars~~. Provided, however, that the provision of this chapter shall not be effective unless and until the Hawes-Cooper Act becomes effective.

Sec. 241. Section two hundred seventeen point fourteen (217.14), subsection seven (7), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

The commissioner of social services may establish for any inmate sentenced pursuant to ~~section 789.13~~ chapter three (3), section two hundred two (202) of this Act a furlough program under which inmates sentenced to and confined in an institution under the jurisdiction of the department of social services may be temporarily released. Furloughs for a period not to exceed fourteen days may be granted when an immediate member of the 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 the inmate to participate in programs or activities that serve rehabilitative objectives. The commissioner of social services shall promulgate rules and regulations to carry out the provisions of this paragraph.

Sec. 242. Section two hundred eighteen point ninety-one (218.91), Code 1975, is amended to read as follows:

218.91 BOYS TRANSFERRED FROM TRAINING SCHOOL TO REFORMATORY. The director of the division of child and family services with the consent and approval of the director of the division of corrections of the department of social services may order the transfer of inmates of the training school for boys to the men's reformatory for custodial care whenever it is determined that such action will be conducive to the welfare of the other inmates of the school. Such transfer shall be effected by application in writing to the district court, or any judge thereof, of the county in which the said

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training school is situated. Upon the granting of the order of transfer, the transfer shall take place. The county attorney of the said county shall appear in support of such application. The cost of the transfer shall be paid from the funds of the training school for boys. Subsequent to a transfer made under this section, the person transferred shall be subject to all the provisions of law and regulations of the institution to which he is transferred, and for the purposes of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act such person shall be regarded as having been committed to the institution.

Sec. 243. Section two hundred twenty-two point forty-seven (222.47), Code 1975, is amended to read as follows:

222.47 PENALTY FOR FALSE PETITION OF COMMITMENT. Any person who shall maliciously seek to have any person adjudged mentally retarded, knowing that such person is not mentally retarded, shall be ~~fined not exceeding one thousand dollars or imprisoned not exceeding one year in the county jail~~ guilty of a fraudulent practice.

Sec. 244. Section two hundred twenty-three point four (223.4), subsection two (2), Code 1975, is amended to read as follows:

2. Commitments by the courts as mentally incompetent to stand trial under chapter ~~783~~ two (2), section one thousand two hundred nine (1209) of this Act.

Sec. 245. Section two hundred twenty-four A point six (224A.6), Code 1975, is amended to read as follows:

224A.6 PENALTIES. Any person who violates any provision of this chapter shall~~, upon conviction, be fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 246. Section two hundred twenty-nine point thirty-eight (229.38), Code 1975, is amended to read as follows:

229.38 CRUELTY OR OFFICIAL MISCONDUCT. If any person having the care of a mentally ill person, and restraining

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him, whether in a hospital or elsewhere, with or without authority, shall treat him with unnecessary severity, harshness, or cruelty, or in any way abuse him, or if any officer required by the provisions of this and chapters 226 to 228, inclusive, to perform any act shall willfully refuse or neglect to perform the same, he shall, unless otherwise provided, be ~~fined not to exceed five hundred dollars, or be imprisoned in the county jail not to exceed three months, and pay the costs of prosecution, or be both fined and imprisoned at the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 247. Section two hundred twenty-nine point thirty-nine (229.39), Code 1975, is amended to read as follows:

229.39 FAILURE TO FURNISH WRITING MATERIAL. If any member of the visiting committee, superintendent of the hospital, or other person in charge of a mentally ill person confined in the hospital, shall knowingly and willfully violate any provision of this and chapters 226 to 228, inclusive, by failing and refusing to furnish material for writing, failing or refusing to allow a party to write letters, to mail letters written, to receive and deliver letters written as provided herein to such person so confined, or in any other way, he shall be guilty of a simple misdemeanor.

Sec. 248. Section two hundred thirty-five A point nine (235A.9), subsection one (1), Code 1975, is amended to read as follows:

1. Any person, official, agency or institution, required by this chapter to report a suspected case of child abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars or be imprisoned in the county jail not more than ten days~~.

Sec. 249. Section two hundred thirty-five A point twenty-one (235A.21), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who willfully requests, obtains, or seeks

to obtain child abuse information under false pretenses, or who willfully communicates or seeks to communicate child abuse information to any agency or person except in accordance with sections 235A.15 and 235A.17, or any person connected with any research authorized pursuant to section 235A.15 who willfully falsifies child abuse information or any records relating thereto, is guilty of a ~~criminal offense and upon conviction for each such offense be punished by a fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than two years, or by both such fine and imprisonment~~ serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate child abuse information except in accordance with sections 235A.15 and 235A.17 shall ~~for each such offense be fined not more than one hundred dollars or be imprisoned not more than ten days~~ be guilty of a simple misdemeanor.

Sec. 250. Section two hundred thirty-six point thirty-four (236.34), Code 1975, is amended to read as follows:

236.34 PENALTY. Every person who violates any of the provisions of this chapter or who shall intentionally make any false statements or reports to the state commissioner with reference to the matters contained herein, shall be guilty of a ~~misdemeanor and upon conviction shall be fined not to exceed three hundred dollars or imprisoned for a term not to exceed one year~~ fraudulent practice.

Sec. 251. Section two hundred thirty-eight point forty-five (238.45), Code 1975, is amended to read as follows:

238.45 PENALTY. Every person who violates any of the provisions of this chapter or who intentionally shall make any false statements or reports to the state director with reference to the matters contained herein, shall be guilty of a ~~misdemeanor and upon conviction shall be punished accordingly~~ fraudulent practice.

Sec. 252. Section two hundred thirty-nine point fourteen

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(239.14), Code 1975, is amended to read as follows:

239.14 FRAUDULENT ACTS. Whoever obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, or by impersonation, or any fraudulent device, any assistance under this chapter to which the recipient is not entitled, shall be guilty of a ~~misdemeanor, and, upon conviction thereof, shall be punishable by fine, not exceeding five hundred dollars or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment~~ fraudulent practice.

Sec. 253. Section two hundred forty-five point eleven (245.11), Code 1975, is amended to read as follows:

245.11 EFFECT OF TRANSFER. After a transfer to either institution is made, under section 245.10, the person transferred shall be subject to all the provisions of law and regulations of the institution to which she is transferred, and for the purposes of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act, a person transferred from the training school for girls to the women's reformatory shall be regarded as having been committed thereto.

Sec. 254. Section two hundred forty-nine point eleven (249.11), Code 1975, is amended to read as follows:

249.11 FRAUD. Any person who obtains assistance under this chapter by misrepresentation or by failure with fraudulent intent to bring forth all of the facts required of an applicant for assistance under this chapter, or any person who shall knowingly make false statements concerning an applicant's eligibility for assistance under this chapter, is guilty of a simple misdemeanor.

Sec. 255. Section two hundred fifty point ten (250.10), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be unlawful for any person, body, association, firm, corporation or any other agency to solicit, disclose,

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receive, make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists, names or other information obtained from the reports above provided for, for commercial or political purposes, and a violation of this provision shall constitute a serious misdemeanor ~~punishable by a fine of not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment~~.

Sec. 256. Section two hundred sixty-two point sixty-eight (262.68), Code 1975, is amended to read as follows:

262.68 SPEED LIMIT ON INSTITUTIONAL GROUNDS. The maximum speed limit of all vehicles on institutional roads at institutions under the control of the state board of regents shall be forty-five miles per hour. All driving shall be confined to driveways designated by the state board. Whenever the state board shall determine that the speed limit hereinbefore set forth is greater than is reasonable or safe under the conditions found to exist at any place of congestion or upon any part of its institutional roads, said board shall determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at such places of congestion or other parts of its institutional roads. Any person violating the aforementioned speed limits shall~~, upon conviction, be fined not to exceed one hundred dollars, or be imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 257. Section two hundred sixty-four point six (264.6), Code 1975, is amended to read as follows:

264.6 PENALTY. The members of the board of trustees and the officers of an institution of higher learning who do not file, in accordance with the provisions of this chapter, the record of grades in the office of the registrar of the state university within twelve months after the said institution has been closed or has ceased to function as an educational

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institution, ~~may~~ shall be ~~fined an amount not to exceed five hundred dollars~~ guilty of a simple misdemeanor.

Sec. 258. Section two hundred eighty-five point fourteen (285.14), Code 1975, is amended to read as follows:

285.14 NONSTANDARD BUSES--PENALTIES. Any person who operates or permits to be operated as a school bus to transport pupils, any vehicle which does not comply with the requirements provided by law or by the rules and regulations of the state department of public instruction, or for which there is not a valid temporary certificate for operation, shall be ~~punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 259. Section two hundred eighty-five point fifteen (285.15), Code 1975, is amended to read as follows:

285.15 FORFEITURE OF REIMBURSEMENT RIGHTS. The failure of any local district to comply with the provisions of this chapter or any other laws relating to the transportation of pupils, or any rules made by the state department of public instruction under this chapter or the final decisions of the area education agency board, or the final decisions of the state department of public instruction shall during the period such failure to comply existed forfeit the rights to collect transportation costs from school or parents while operating in such illegal manner. Any superintendent, board, or board member who knowingly operates or permits to be operated any school bus transporting public school pupils in violation of any school transportation law shall be deemed guilty of a simple misdemeanor.

Sec. 260. Section two hundred eighty-seven point four (287.4), Code 1975, is amended to read as follows:

287.4 "RUSHING" PROHIBITED. No person shall go upon school grounds or enter any school building for the purpose of "rushing" or soliciting, while there, any pupil of such school to join any fraternity, society, or organization out-

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side of said school. Persons violating the provisions of this section shall be ~~fined not less than two dollars nor more than ten dollars, and on failure to pay such fine shall be imprisoned in the county jail for not more than ten days. Fines collected shall be paid to the county treasurer, and be by him added to the school fund of the district in which the offense was committed~~ guilty of a simple misdemeanor.

Sec. 261. Section two hundred eighty-nine point six (289.6), Code 1975, is amended to read as follows:

289.6 VIOLATIONS. When such part-time school shall have been established, any parent or person in charge of such minor as defined in this chapter who shall violate the provisions of this chapter, shall be ~~punished by a fine of not less than ten dollars nor more than fifty dollars~~ guilty of a simple misdemeanor, or any person unlawfully employing any such minor shall be ~~punished by a fine of not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 262. Section two hundred ninety-seven point fourteen (297.14), Code 1975, is amended to read as follows:

297.14 BARBED WIRE. No fence provided for in section 297.13 shall be constructed of barbed wire, nor shall any barbed wire fence be placed within ten feet of any school grounds. Any person violating the provisions of this section shall be ~~punished by a fine not exceeding twenty-five dollars~~ guilty of a simple misdemeanor.

Sec. 263. Section two hundred ninety-nine point six (299.6), Code 1975, is amended to read as follows:

299.6 VIOLATIONS. Any person who shall violate any of the provisions of sections 299.1 to 299.5, inclusive, shall be ~~fined not less than five dollars nor more than twenty dollars for each offense~~ guilty of a simple misdemeanor.

Sec. 264. Section three hundred one point twenty-eight (301.28), Code 1975, is amended to read as follows:

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301.28 OFFICERS AND TEACHERS AS AGENTS FOR BOOKS AND SUPPLIES. It shall be unlawful for any school director, officer, area education director or teacher to act as agent for any school textbooks or school supplies during such term of office or employment, and any school director, officer, area education director or teacher, who shall act as agent or dealer in school textbooks or school supplies, during the term of such office or employment, shall be deemed guilty of a serious misdemeanor~~,-and-shall,-upon-conviction-thereof,-be-fined-not-less-than-ten-dollars-nor-more-than-one-hundred-dollars,-and-pay-the-costs-of-prosecution~~.

Sec. 265. Section three hundred six B point six (306B.6), Code 1975, is amended to read as follows:

306B.6 MISDEMEANOR. Whoever erects or maintains an advertising device in violation of this chapter or in violation of rules and regulations promulgated by the department under this chapter shall be guilty of a simple misdemeanor ~~and-upon-conviction-be-fined-not-less-than-twenty-five-dollars-nor-more-than-one-hundred-dollars~~.

Sec. 266. Section three hundred nine point sixty-six (309.66), Code 1975, is amended to read as follows:

309.66 USE OF GRAVEL BEDS. The board of supervisors may permit private parties or municipal corporations to take materials from such acquired lands in order to improve any street or highway in the county, but it shall be a serious misdemeanor for any person to use or for the board of supervisors to dispose of any such material for any purpose other than for the improvement of such streets or highways.

Sec. 267. Section three hundred thirteen A point thirty-seven (313A.37), Code 1975, is amended to read as follows:

313A.37 FAILURE TO PAY TOLL--PENALTY. Any person who uses any toll bridge and fails or refuses to pay the toll provided therefor shall be ~~punished-by-a-fine-of-not-more-than-one-hundred-dollars-or-by-imprisonment-for-not-more-than-thirty-days,-or-both~~ guilty of a simple misdemeanor.

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Sec. 268. Section three hundred seventeen point twenty-four (317.24), Code 1975, is amended to read as follows:

317.24 PUNISHMENT OF OFFICER. Any officer referred to in this chapter who neglects or fails to perform the duties incumbent upon him under the provisions of this chapter shall be ~~punished by a fine not exceeding one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 269. Section three hundred twenty point eight (320.8), Code 1975, is amended to read as follows:

320.8 PENALTY. Failure to comply with any of the conditions of said grant, whether made such by statute or by agreement, or the laying of any such mains, or the constructing of any such cattleways, without having secured the grant of permission as provided by law shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars~~ deemed a simple misdemeanor. It shall be the duty of the state department of transportation and of the board of supervisors, as regards the highways under their respective jurisdictions, to enforce the provisions of this section and the laws relating thereto.

Sec. 270. Section three hundred twenty-one point one (321.1), subsection forty-five (45), Code 1975, is amended to read as follows:

45. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations in addition to its meaning in ~~section 748.3~~ chapter two (2), section one hundred four (104), subsection seven (7) of this Act.

Sec. 271. Section three hundred twenty-one point seventy-eight (321.78), Code 1975, is amended to read as follows:

321.78 INJURING OR TAMPERING WITH VEHICLE. Any person who either individually or in association with one or more other persons willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a simple mis-

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demeanor ~~punishable as provided in section 321.482~~.

Sec. 272. Section three hundred twenty-one point seventy-nine (321.79), Code 1975, is amended to read as follows:

321.79 INTENT TO INJURE. Any person who with intent to commit any malicious mischief, injury, or other crime climbs into or upon a vehicle whether it is in motion or at rest or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle while the same is at rest and unattended is guilty of a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 273. Section three hundred twenty-one point ninety-one (321.91), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who abandons a motor vehicle shall be guilty of a simple misdemeanor.

Sec. 274. Section three hundred twenty-one point ninety-seven (321.97), Code 1975, is amended to read as follows:

321.97 FRAUDULENT APPLICATIONS. Any person who fraudulently uses a false or fictitious name in any application for the registration of, or certificate of title to, a vehicle or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a ~~fraud in any such application, shall upon conviction be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year or both~~ fraudulent practice.

Sec. 275. Section three hundred twenty-one point ninety-eight (321.98), Code 1975, is amended to read as follows:

321.98 OPERATION WITHOUT REGISTRATION. No person shall operate, nor shall an owner knowingly permit to be operated upon any highway any vehicle required to be registered and titled hereunder unless there shall be attached thereto and displayed thereon when and as required by this chapter a valid registration card and registration plate or plates issued

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therefor for the current registration year and unless a certificate of title has been issued for such vehicle except as otherwise expressly permitted in this chapter. Any violation of this section is a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 276. Section three hundred twenty-one point ninety-nine (321.99), Code 1975, is amended to read as follows:

321.99 IMPROPER USE OF REGISTRATION. No person shall lend to another any registration card, registration plate, special plate, or permit issued to him if the person desiring to borrow the same would not be entitled to the use thereof, nor shall any person knowingly permit the use of any of the same by one not entitled thereto, nor shall any person display upon a vehicle any registration card, registration plate or permit not issued for such vehicle or not otherwise lawfully used thereon under this chapter. Any violation of this section is a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 277. Section three hundred twenty-one point one hundred (321.100), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

It is a ~~felony, punishable as provided in section 321.483,~~ fraudulent practice for any person to commit any of the following acts:

Sec. 278. Section three hundred twenty-one point two hundred sixteen (321.216), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

It is a simple misdemeanor~~, punishable as provided in section 321.482 unless another punishment is otherwise provided,~~ for any person:

Sec. 279. Section three hundred twenty-one point two hundred seventeen (321.217), Code 1975, is amended to read as follows:

321.217 PERJURY. Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter

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or thing required by the terms of this chapter to be sworn to or affirmed, is guilty of ~~perjury-and-upon-conviction-shall-be-punishable-by-fine-or-imprisonment-as-other-persons-committing-perjury-are-punishable~~ a class "D" felony.

Sec. 280. Section three hundred twenty-one point two hundred eighteen (321.218), Code 1975, is amended to read as follows:

321.218 DRIVING WHILE LICENSE DENIED, SUSPENDED OR REVOKED. Any person whose operator's or chauffeur's license or driving privilege, has been denied, canceled, suspended or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while such license or privilege is denied, canceled, suspended, or revoked, is guilty of a simple misdemeanor ~~and-upon-conviction-shall-be-punished-by-imprisonment-for-not-less-than-two-days-or-more-than-thirty-days~~. The sentence imposed under this section shall not be suspended by the court, notwithstanding the provisions of section 789A.1 or any other provision of statute. The department, upon receiving the record of the conviction of any person under this section upon a charge of driving a motor vehicle while the license of such person was suspended or revoked, shall extend the period of suspension or revocation for an additional like period, and the department shall not issue a new license during such additional period.

Sec. 281. Section three hundred twenty-one point two hundred seventy-seven (321.277), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Every person convicted of reckless driving shall be ~~punished-upon-a-conviction-by-imprisonment-for-a-period-of-not-more-than-thirty-days,-or-by-fine-of-not-less-than-twenty-five-dollars,-nor-more-than-one-hundred-dollars~~ guilty of a simple misdemeanor.

Sec. 282. Section three hundred twenty-one point two hundred seventy-eight (321.278), unnumbered paragraph two (2),

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Code 1975, is amended to read as follows:

Any person who violates the provisions of this section shall be guilty of ~~drag-racing-and-upon-conviction-shall-be punished-by-a-fine-of-not-more-than-one-hundred-dollars-or by-imprisonment-in-the-county-jail-for-not-more-than-thirty days~~ a simple misdemeanor.

Sec. 283. Section three hundred twenty-one point two hundred eighty-one (321.281), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever operates a motor vehicle upon the public highways of this state while under the influence of an alcoholic beverage, a narcotic, hypnotic or other drug, or any combination of such substances shall, upon conviction or a plea of guilty, ~~be-punished~~ be guilty of a serious misdemeanor for the first offense ~~by-a-fine-of-not-less-than-three-hundred-dollars-nor more-than-one-thousand-dollars,-or-by-imprisonment-in-the county-jail-for-a-period-of-not-to-exceed-one-year,-or-by both-such-fine-and-imprisonment;~~ be guilty of an aggravated misdemeanor for the second offense ~~by-a-fine-of-not-less-than five-hundred-dollars,-nor-more-than-one-thousand-dollars, or-by-imprisonment-in-the-penitentiary-for-a-period-of-not to-exceed-one-year,-or-by-both-such-fine-and-imprisonment;~~ and be guilty of a class "D" felony for a third offense and each offense thereafter ~~by-imprisonment-in-the-penitentiary for-any-term-of-years-not-less-than-one-or-more-than-five, and-the-court-may-pronounce-sentence-for-a-lesser-period-than the-maximum,-the-provisions-of-the-indeterminate-sentence law-to-the-contrary-notwithstanding.~~

Sec. 284. Section three hundred twenty-one point two hundred eighty-two (321.282), Code 1975, is amended to read as follows:

321.282 VIOLATIONS. If any person who has been convicted or pleaded guilty to driving or operating a motor vehicle upon the public highways of this state while in an intoxicated condition is found driving or operating any motor vehicle

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in violation of the provisions of sections 321.174 and 321.209 he shall~~,-without-regard-to-any-other-punishment-provided by-law,~~ be ~~imprisoned-in-the-county-jail-for-a-period-of-not to-exceed-thirty-days~~ guilty of a simple misdemeanor.

Sec. 285. Section three hundred twenty-one point two hundred eighty-three (321.283), subsection fourteen (14), Code 1975, is amended to read as follows:

14. PENALTY. Any person violating a restriction or a temporary driving permit issued under subsection 6 shall be guilty of a simple misdemeanor.

Sec. 286. Section three hundred twenty-one point four hundred seventy-six (321.476), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person who prevents or in any manner obstructs an officer attempting to carry out the provisions of this section is guilty of a simple misdemeanor ~~and-shall-be-punished-as provided-in-section-321.482~~.

Sec. 287. Section three hundred twenty-one point four hundred eighty-two (321.482), Code 1975, is amended to read as follows:

321.482 PENALTIES FOR MISDEMEANOR. It is a simple misdemeanor for any person to do any act forbidden or to fail to perform any act required by any of the provisions of this chapter unless any such violation is by this chapter or other law of this state declared to be a felony. Chapter 232 shall have no application in the prosecution of offenses committed in violation of this chapter which are ~~punishable-by-a-fine of-not-more-than-one-hundred-dollars,-or-by-imprisonment-for not-more-than-thirty-days~~ simple misdemeanor.

~~Every-person-convicted-of-a-misdemeanor-for-a-violation of-any-of-the-provisions-of-this-chapter-for-which-another penalty-is-not-provided-shall-be-punished-by-a-fine-of-not more-than-one-hundred-dollars-or-by-imprisonment-for-not-more than-thirty-days.~~

Sec. 288. Section three hundred twenty-one point four

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hundred eighty-three (321.483), Code 1975, is amended to read as follows:

321.483 PENALTY FOR FELONY. Any person who is convicted of a violation of any of the provisions of this chapter herein declared to constitute a felony, and for which another punishment is not otherwise provided, shall be ~~punished by imprisonment for a term of not more than five years, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or by both such fine and imprisonment~~ guilty of a class "D" felony.

Sec. 289. Section three hundred twenty-one A point thirty-two (321A.32), Code 1975, is amended to read as follows:

321A.32 OTHER VIOLATIONS--PENALTIES.

1. Any person whose license or registration or nonresident's operating privilege has been suspended, denied or revoked under this chapter or continues to remain suspended or revoked under this chapter, and who, during such suspension, denial or revocation, or during such continuing suspension or continuing revocation, drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this chapter, shall be ~~fined not more than five hundred dollars or imprisoned not exceeding six months, or both~~ guilty of a serious misdemeanor.

2. Any person willfully failing to return license or registration as required in section 321A.31 shall be ~~fined not more than five hundred dollars or imprisoned not to exceed thirty days, or both~~ guilty of a serious misdemeanor.

3. Any person who shall forge or, without authority, sign any notice provided for under section 321A.5 that a policy or bond is in effect, or any evidence of proof of financial responsibility, or who files or offers for filing any such notice or evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be ~~fined not more than one thousand dollars or imprisoned~~

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~~not more than one year, or both~~ guilty of a serious misdemeanor.

4. Any person who shall violate any provision of this chapter for which no penalty is otherwise provided shall be ~~fined not more than five hundred dollars or imprisoned not more than ninety days, or both~~ guilty of a serious misdemeanor.

Sec. 290. Section three hundred twenty-one B point fifteen (321B.15), Code 1975, is amended to read as follows:

321B.15 DRIVING WHILE LICENSE DENIED OR REVOKED. Any person whose license, or driving privilege, has been denied or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while such license or privilege is denied or revoked, is guilty of a simple misdemeanor and upon conviction shall be punished as provided for simple misdemeanors in section 321.482. The department, upon receiving the record of the conviction of any person under this section upon a charge of driving a motor vehicle while the license of such person was revoked, shall extend the period of revocation for an additional like period, and the department shall not issue a new license during such additional period.

Sec. 291. Section three hundred twenty-one F point twelve (321F.12), Code 1975, is amended to read as follows:

321F.12 PENALTY. Any person violating any provision of this chapter shall be guilty of a simple misdemeanor.

Sec. 292. Section three hundred twenty-one G point fourteen (321G.14), Code 1975, is amended to read as follows:

321G.14 PENALTY. Any person who shall violate any provision of this chapter or any regulation of the commission or director of transportation shall be guilty of a simple misdemeanor ~~and punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days~~.

Chapter 232 shall have no application in the prosecution of offenses which are committed in violation of this chapter, and which ~~are punishable by a fine of not more than one hun-~~

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~~dred-dollars-or-by-imprisonment-for-not-more-than-thirty-days~~ constitute simple misdemeanors.

Sec. 293. Section three hundred twenty-two point fourteen (322.14), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person violating any of the provisions of this chapter where a penalty is not specifically provided for shall be deemed guilty of a simple misdemeanor ~~and-upon-conviction thereof-shall-be-punished-by-a-fine-not-exceeding-one-hundred dollars-or-thirty-days-in-jail~~.

Sec. 294. Section three hundred twenty-three point nine (323.9), Code 1975, is amended to read as follows:

323.9 VIOLATIONS. Any person violating the provisions of this chapter is guilty of a simple misdemeanor ~~and-shall be-punished-by-a-fine-not-to-exceed-one-hundred-dollars-or imprisonment-in-the-county-jail-for-a-period-of-not-to-exceed thirty-days~~.

Sec. 295. Section three hundred twenty-four point fourteen (324.14), Code 1975, is amended to read as follows:

324.14 PENALTY FOR OPERATING UNREGISTERED TRANSPORT. It shall be unlawful for any person to transport motor fuel in bulk upon the highways of this state in a conveyance the registration of which is required without the evidence of registration provided for and any person found guilty of the unlawful act shall be ~~fined-not-to-exceed-one-hundred-dollars or-imprisoned-in-the-county-jail-not-more-than-thirty-days~~ guilty of a simple misdemeanor, and each cargo so transported shall be considered a separate offense. This penalty shall be in addition to penalties imposed under other provisions of this chapter. Persons transporting motor fuel in bulk upon the highways of this state in an amount of not to exceed four thousand gallons shall not be regarded as transporting in bulk.

Sec. 296. Section three hundred twenty-four point twenty (324.20), Code 1975, is amended to read as follows:

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324.20 POSTING PRICE AND DISCOUNTS. Every distributor and other person selling motor fuel in this state for resale to dealers in this state, shall keep posted in a conspicuous place most accessible to the public at their place or places of business, including bulk plants, a placard showing in legible words and figures the same height and size, the price per gallon of each grade of motor fuel offered for sale, the amount of state excise tax per gallon thereon, the federal excise tax per gallon thereon, and the total thereof. If any rebate, discount, commission, or other concession is granted by distributors or persons engaged in the sale of motor fuel for resale to dealers of such nature as will reduce the cost or price to any purchaser or dealer in such products, the conditions, quantity, and amount of such rebate, discount, commission or other concession shall be posted as a part of the posted price. All price placards shall be subject to the approval of the department of revenue. Any distributor or person failing to post or keep posted the placard required by this section, or who posts placards not approved by the department of revenue as provided in this section, or who sells any motor fuel for resale at a price which directly or indirectly, by any means or device, deviates from the posted price set forth on the price placard approved by the department of revenue, shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of one hundred dollars or imprisonment in the county jail for thirty days~~. Nothing contained herein shall prohibit or restrict the distribution of earnings to the members of any distributor or person, nor to the distribution to consumers of road maps, publicity and other advertising media carrying the name of the distributor, person, or produce. Each day the required placard remains unposted or an unauthorized placard remains posted, or each deviation from the posted price, shall be considered a separate offense. In the event of a second conviction for the violation of any of the provisions of this section, the department of

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revenue may revoke the license of such distributor or person so convicted.

Sec. 297. Section three hundred twenty-four point fifty-two (324.52), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel in violation of the provisions of the preceding paragraph is guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars or shall be imprisoned in the county jail not more than thirty days~~.

Sec. 298. Section three hundred twenty-four point sixty-three (324.63), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating the provisions of this section, and disclosing the contents of any records or reports required to be kept or made under the provisions of this chapter, except as hereinabove provided, shall ~~upon conviction be fined not less than one hundred dollars nor more than one thousand dollars or be confined in the county jail not less than thirty days nor more than six months~~ guilty of a simple misdemeanor.

Sec. 299. Section three hundred twenty-four point seventy-three (324.73), Code 1975, is amended to read as follows:

324.73 EMBEZZLEMENT OF FUEL TAX MONEY--PENALTY. Every sale of motor fuel in this state and every sale of special fuel dispensed by the seller into a fuel supply tank of a motor vehicle shall, unless otherwise provided, be presumed to include as a part of the purchase price the fuel tax due the state of Iowa under the provisions of this chapter. Every person collecting fuel tax money as part of the selling price of motor fuel or special fuel, shall hold the tax money in trust for the state of Iowa unless the fuel tax on the fuel has been previously paid to the state of Iowa. Any person receiving fuel tax money in trust and failing to remit it

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to the department of revenue on or before time required shall be guilty of ~~embezzlement-of-public-funds-and-upon-conviction shall-be-subjected-to-the-penalty-provided-by-law-for-that offense~~ theft.

Sec. 300. Section three hundred twenty-four point seventy-five (324.75), Code 1975, is amended to read as follows:

324.75 PENALTY FOR FALSE CERTIFICATE. Any person who makes a false certificate, false fuel invoice, false fuel receipt, or false fuel sales ticket in any report, return, application, claim, or evidence required or provided for by this chapter or under any rule or regulation made by the department of revenue shall be ~~punished-by-imprisonment-in the-penitentiary-for-not-more-than-one-year,-or-by-imprisonment-in-the-county-jail-for-such-term-as-the-court-may-determine,-not-exceeding-six-months,-or-by-a-fine-of-not-more-than two-thousand-dollars,-or-by-such-combination-of-either-imprisonment-and-fine-as-the-court-may-determine~~ guilty of a fraudulent practice.

Sec. 301. Section three hundred twenty-five point thirty-four (325.34), Code 1975, is amended to read as follows:

325.34 MISDEMEANOR--PENALTY. Every owner, officer, agent, or employee of any motor carrier, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, or regulation, direction, demand, or requirement or any part or provision thereof, of the commission, or who procures, aids, or abets any corporation or person in his failure to obey, observe, or comply with any such order, decision, rule, direction, demand, or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and-upon-conviction-shall-be-punished-by-a-fine-not-exceeding one-hundred-dollars-or-by-imprisonment-in-the-county-jail for-a-period-of-not-to-exceed-thirty-days~~.

Sec. 302. Section three hundred twenty-five point thirty-

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five (325.35), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be a simple misdemeanor~~, punishable by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~, for any motor carrier to operate any motor vehicle for which the annual fee has not been paid and the board may revoke the certificate of convenience and necessity of any such violator.

Sec. 303. Section three hundred twenty-six point twenty-seven (326.27), Code 1975, is amended to read as follows:

326.27 VIOLATIONS TO NEGATE AGREEMENTS. Operation of a commercial vehicle or vehicles in violation of the requirements of this chapter, the motor vehicle registration laws of this state, or the terms of any agreement negotiated by the department pursuant to this chapter may, after due notice and hearing, be grounds for denial of reciprocal or proportional registration privileges on the vehicle or vehicles of an owner so operated. Any owner denied such reciprocal or proportional registration privileges shall be subject to payment of full annual Iowa registration fees on any such vehicle operated on Iowa highways. In addition to denial of reciprocal or proportional registration privileges, it shall be a simple misdemeanor~~, unless such act is declared under Iowa law to be a felony, punishable as provided in section 321.482 for any person to operate under reciprocity or proportional registration in violation of any requirements of this chapter~~.

Sec. 304. Section three hundred twenty-seven point nine (327.9), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be a simple misdemeanor for any truck operator or contract carrier to operate any motor truck for which the annual fee has not been paid and the board may revoke the truck operator or contract carrier permit of any such violator or both.

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Sec. 305. Section three hundred twenty-seven point twenty-two (327.22), Code 1975, is amended to read as follows:

327.22 VIOLATIONS--PUNISHMENT. Every owner, officer, agent, or employee of any truck operator, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, or regulation, direction, demand, or requirement or any part or provision thereof, of the commission, or the department, or who procures, aids, or abets any corporation or person in his failure to obey, observe, or comply with any such order, decision, rule, direction, demand, or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 306. Section three hundred twenty-seven A point eighteen (327A.18), Code 1975, is amended to read as follows:

327A.18 PENALTIES. Every owner, officer, agent or employee of any liquid transport carrier, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule or regulation, direction, demand, or requirement or any part or provision thereof of the board, or who procures, aids or abets any corporation or person in his failure to obey, observe, or comply with any such order, decision, rule, direction, demand or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 307. Section three hundred twenty-eight point forty (328.40), Code 1975, is amended to read as follows:

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328.40 PENALTIES. Any person who violates any of the provisions of this chapter, or who makes any material false statement or representation in any application or statement filed with the department as required by this chapter or any of the rules and regulations issued pursuant thereto shall be guilty of a ~~misdemeanor, and upon conviction thereof shall be punished accordingly~~ fraudulent practice.

Sec. 308. Section three hundred twenty-eight point forty-one (328.41), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who operates an aircraft in a careless or reckless manner in violation of the provisions of this section shall be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished accordingly~~.

Sec. 309. Section three hundred twenty-nine point fourteen (329.14), Code 1975, is amended to read as follows:

329.14 ENFORCEMENT AND REMEDIES. Each violation of this chapter or of any regulations, order, or rules promulgated pursuant to this chapter, shall constitute a simple misdemeanor~~, and the perpetrator thereof, upon conviction, shall be punished accordingly,~~ and each day a violation continues to exist shall constitute a separate offense.

Sec. 310. Section three hundred thirty-two point thirty (332.30), Code 1975, is amended to read as follows:

332.30 PENALTY. Any person who violates any of the provisions of sections 332.23 to 332.29 or who violates any of the terms or conditions under which he is permitted to engage in the business activity for which he was licensed, shall be ~~fined a sum not to exceed twenty-five dollars~~ guilty of a simple misdemeanor.

Sec. 311. Section three hundred thirty-six A point seven (336A.7), Code 1975, is amended to read as follows:

336A.7 OTHER ATTORNEY APPOINTED. The court may, for cause, upon the application of the indigent person or the public defender, or on its own motion, appoint an attorney

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other than the public defender, to represent the indigent person at any state of the proceedings or on appeal. The attorney so appointed shall be compensated as provided in ~~section 775.5~~ chapter two (2), section one thousand five hundred seven (1507) of this Act.

Sec. 312. Section three hundred thirty-six B point two (336B.2), Code 1975, is amended to read as follows:

336B.2 FINANCIAL STATEMENT. Before an attorney is appointed under the provisions of sections 68.8, 145.17, 145.19, 222.22, 232.28, ~~775.4~~ or ~~777.12~~ rule eight (8), rules of criminal procedure, or to represent any person charged with a crime in this state, the court shall require the client, or his parent, guardian, or custodian to complete under oath a detailed financial statement.

Sec. 313. Section three hundred thirty-six B point five (336B.5), Code 1975, is amended to read as follows:

336B.5 FALSE STATEMENT--PENALTY. Any person that submits to a court or to a public defender a materially false financial statement, for the purpose of obtaining legal assistance at public expense, shall be guilty of a ~~misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days~~ fraudulent practice.

Sec. 314. Section three hundred thirty-nine point five (339.5), Code 1975, is amended to read as follows:

339.5 REPORTS BY OTHERS. Every person who knows of the existence of a body where death occurred in the manner specified in section 339.6, shall notify the county or state medical examiner or the city or state law enforcement agency or county sheriff thereof as soon as possible, unless such person shall have good reason to believe that such notice has already been given. Any person who shall fail to give such notice to a medical examiner shall be guilty of a ~~public offense, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or a sentence in the county~~

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~~jail-of-not-more-than-six-months,-or-by-both-such-fine-and-imprisonment~~ serious misdemeanor.

Sec. 315. Section three hundred thirty-nine point thirteen (339.13), unnumbered paragraph four (4), Code 1975, is amended to read as follows:

Any person violating any of the provisions of this section shall be deemed guilty of a serious misdemeanor ~~and,-upon-conviction-thereof,-shall-be-fined-not-more-than-one-thousand-dollars-or-imprisoned-in-the-county-jail-not-more-than-one-year,-or-by-both-such-fine-and-imprisonment~~.

Sec. 316. Section three hundred forty-one A point twenty-one (341A.21), Code 1975, is amended to read as follows:

341A.21 INDICTABLE MISDEMEANOR. Any person who willfully violates any of the provisions of this chapter shall be guilty of a simple misdemeanor~~,-and-upon-conviction-thereof,-shall-be-punished-by-a-fine-of-not-more-than-one-hundred-dollars-or-by-imprisonment-in-the-county-jail-for-not-longer-than-thirty-days-or-punished-by-both-such-fine-and-imprisonment~~. The district court shall have jurisdiction of all such offenses.

Sec. 317. Section three hundred forty-three point nine (343.9), Code 1975, is amended to read as follows:

343.9 VIOLATIONS. Any officer of any county, or any deputy or employee of such officer, who violates any of the provisions of sections 343.7 and 343.8, shall be guilty of a simple misdemeanor~~,-and-fined-not-less-than-one-hundred-dollars,-nor-more-than-five-hundred-dollars,-for-each-offense~~.

Sec. 318. Section three hundred forty-four point ten (344.10), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any county official in charge of any department or office who violates this law shall be guilty of a simple misdemeanor ~~and-punished-accordingly~~.

Sec. 319. Section three hundred forty-six point twenty-two (346.22), Code 1975, is amended to read as follows:

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346.22 VIOLATIONS. Any officer of any county, or any deputy or employee of such officer, who violates any of the provisions of sections 346.20 and 346.21, shall be guilty of a simple misdemeanor~~,-and-fined-not-less-than-one-hundred dollars,-nor-more-than-five-hundred-dollars,-for-each-offense.~~

Sec. 320. Section three hundred fifty point seven (350.7), Code 1975, is amended to read as follows:

350.7 FALSE CLAIM. Any person who shall claim or attempt to procure any bounty provided for in this chapter upon any animal killed in another state or county, or upon any animal which has been domesticated, or who shall attempt to obtain any bounty by presenting any false claim or spurious exhibit, shall be ~~fined-not-more-than-one-hundred-dollars-nor-less than-fifty-dollars-for-each-offense~~ guilty of a fraudulent practice.

Sec. 321. Section three hundred fifty-one point forty-three (351.43), Code 1975, is amended to read as follows:

351.43 PENALTY. Any person refusing to comply with the provisions of sections 351.33 to 351.42 or violating any of their provisions, shall be deemed guilty of a simple misdemeanor ~~and-upon-conviction-shall-be-fined-not-more-than-one hundred-dollars-or-imprisoned-not-more-than-thirty-days,-for each-offense.~~

Sec. 322. Section three hundred fifty-one A point six (351A.6), Code 1975, is amended to read as follows:

351A.6 PENALTY. It shall be a simple misdemeanor for any person or corporation to violate any provision of this chapter. ~~Every-person-convicted-hereunder-shall-be-punished by-imprisonment-for-a-period-not-more-than-thirty-days,-or by-a-fine-not-to-exceed-one-hundred-dollars.~~ Any pound failing or refusing to comply with the provisions of this chapter shall become immediately ineligible for any public moneys notwithstanding the provisions of any contract, and it shall be unlawful for any public body to pay any public moneys to a pound after receipt by it of a notice of such noncompliance

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or refusal from any institution authorized by the state department of health to obtain dogs until such time as such institution shall have withdrawn its notice or the state department of health shall have notified such public body that such notice was without foundation.

Sec. 323. Section three hundred fifty-six point seven (356.7), Code 1975, is amended to read as follows:

356.7 CALENDAR RETURNED. On or before the fifteenth day of the months of January, April, July and October each year, the sheriff of each county must return a copy of such calendar to the district court of the district within which his county is situated. If a sheriff neglects or refuses to do so, he shall be ~~punished by a fine not exceeding one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 324. Section three hundred fifty-six point twenty-three (356.23), Code 1975, is amended to read as follows:

356.23 CRUEL TREATMENT. If any officer or other person treat any prisoner in a cruel or inhuman manner, he shall be ~~punished by fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding twelve months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 325. Section three hundred fifty-six point twenty-five (356.25), Code 1975, is amended to read as follows:

356.25 ANNOYANCE OF PRISONER. Any person persisting in insulting or annoying or communicating with any prisoner, after being commanded by such officer to desist, shall be ~~punished by a fine not exceeding ten dollars, or by imprisonment not exceeding three days~~ guilty of a simple misdemeanor.

Sec. 326. Section three hundred fifty-six A point three (356A.3), Code 1975, is amended to read as follows:

356A.3 ALTERNATIVE CONFINEMENT OF PRISONERS. Any municipal or district court judge may sentence and commit a person to a facility established and maintained pursuant to

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section 356A.1 or 356A.2 instead of the county jail. A district court judge may order the transfer of a person sentenced and committed to the county jail to such a facility upon his own motion, the motion of the sentenced and committed person, or the motion of the sheriff. The original order of commitment or the order of transfer to the facility shall set forth the terms and conditions of the dentention or commitment; that the detained or committed person shall abide by the terms and conditions of this chapter and the rules and regulations of the facility to which committed or transferred. The order shall be read to the detained, committed or transferred person in open court. The committing court or a district court judge may order any person who has been detained, committed, or transferred to such a facility to be transferred to the county jail if, upon hearing, the court determines such person has been refractory, disorderly, has willfully destroyed or injured any property in the facility, or has violated any of the terms and conditions of the order of detention, commitment, or transfer or the provisions of this chapter or the rules and regulations of the facility wherein he was detained or committed. Any violations of the order of detention, commitment, or transfer shall further be punished as contempt of court pursuant to chapter 665. The provisions of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act shall be applicable to any person detained, committed, or transferred to a facility established and maintained pursuant to this chapter. The county or city to which the cause originally belonged shall be liable for the expense of the original detention, commitment, or transfer and the subsequent expenses of maintaining such person in the facility. The county's expense shall be levied and paid out of the court expense fund pursuant to section 444.10.

Sec. 327. Section three hundred fifty-eight A point twenty-six (358A.26), Code 1975, is amended to read as follows:

358A.26 PENALTY. In addition to any other remedy granted

herein, the violation on any regulation, restriction or boundary adopted under this chapter or the occupancy or use of any structure erected, altered or maintained in violation of this chapter shall constitute a simple misdemeanor. Such occupancy or use shall be deemed a continuing violation and may be the subject to repeated prosecutions if so continued. ~~Every person convicted of a misdemeanor, by reason of violations hereinabove set forth, shall be punished by a fine of not more than one hundred dollars or by imprisonment of not more than thirty days.~~

Sec. 328. Section three hundred sixty-four point five (364.5), Code 1975, is amended to read as follows:

364.5 JOINT ACTION--LEAGUE OF MUNICIPALITIES. It is unlawful for the league of Iowa municipalities to provide any form of aid to a political party or to the campaign of a candidate for political or public office. Any person violating or being an accessory to a violation of this section is guilty of a simple misdemeanor.

Sec. 329. Section four hundred point thirty (400.30), Code 1975, is amended to read as follows:

400.30 PENALTY. The provisions of this chapter shall be strictly carried out by each person or body having powers or duties thereunder, and any act or failure to act tending to avoid or defeat the purposes of such provisions is hereby prohibited and shall be ~~punishable as~~ a simple misdemeanor.

Sec. 330. Section four hundred nine point fourteen (409.14), unnumbered paragraph seven (7), Code 1975, is amended to read as follows:

If any such plat of land is tendered for recording in the office of the county recorder or county auditor of any county in which any city of the above class may be situated, it shall be the duty of such county recorder and auditor to examine such plat, to ascertain whether the endorsement of approval by the city council, as herein provided for, shall appear thereon. If it shall, and the plat otherwise conforms to

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the provisions of law, said officers shall accept same for recording. If such endorsement does not appear thereon said officers shall refuse and decline to accept such plat, and any filing thereof shall be void. Any failure to observe the provisions of this section on the part of any county recorder or county auditor shall constitute a simple misdemeanor in office.

Sec. 331. Section four hundred eleven point fourteen (411.14), Code 1975, is amended to read as follows:

411.14 PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of such retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a ~~misdemeanor, and shall be punishable therefor under the laws of this state~~ fraudulent practice. Should any change or errors in records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the respective board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled, shall be paid.

Sec. 332. Section four hundred thirteen point one hundred seven (413.107), Code 1975, is amended to read as follows:

413.107 VIOLATIONS. Every person who shall violate or assist in the violation of any provision of this chapter shall be guilty of a simple misdemeanor ~~punishable by a fine of not less than ten dollars or more than one hundred dollars, and in default in payment thereof, by imprisonment in the county jail for not more than thirty days~~.

Sec. 333. Section four hundred thirteen point one hundred eleven (413.111), Code 1975, is amended to read as follows:

413.111 LIEN ON PROPERTY. The existence of a nuisance in or upon such dwelling, structure on the same lot with a

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dwelling, or on such lot, which the owner thereof has created or permitted to exist and any violation of this chapter as to such dwelling, structure, and lot of which the owner has been guilty shall in such proceeding subject such dwelling, structure, and lot respectively to a penalty of fifty dollars, which shall be a lien thereon until paid; and any violation of an order made or a notice given by the health officer, permitted or committed by the owner of a dwelling, structure on the same lot with a dwelling, or such lot, shall ~~in such proceeding subject the dwelling, structure, and lot respectively to a penalty of fifty dollars, which penalty shall be a lien thereon until paid~~ constitute a simple misdemeanor.

Sec. 334. Section four hundred twenty-two point twenty (422.20), Code 1975, is amended to read as follows:

422.20 INFORMATION CONFIDENTIAL--PENALTY. It shall be unlawful for any officer or employee of the state of Iowa to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any person committing an offense against the foregoing provision shall ~~upon conviction for each such offense, be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine of not more than one thousand dollars, or both~~ be guilty of a serious misdemeanor; and if the offender be an officer or employee of the state of Iowa he shall also be dismissed from office or discharged from employment. Nothing herein shall prohibit turning over to duly authorized officers of the United States

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information and income returns pursuant to agreement between the director and the secretary of the treasury of the United States or his delegate.

Sec. 335. Section four hundred twenty-two point twenty-five (422.25), subsections five (5) and eight (8), Code 1975, are amended to read as follows:

5. Any person required to supply any information, to pay any tax, or to make, sign, or file any return or supplemental return, who willfully makes any false or fraudulent return, or willfully fails to pay such tax, supply such information, or make, sign, or file such return, at the time or times required by law, shall ~~upon conviction for each such offense be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding twenty-five hundred dollars, or both such fine and imprisonment~~ be guilty of a fraudulent practice.

8. Any person who willfully attempts in any manner to defeat or evade any tax imposed by this division or the payment thereof, shall upon conviction for each such offense be ~~punished by imprisonment in the county jail for a term not exceeding one year or in the state penitentiary for a term not exceeding five years or by a fine not exceeding five thousand dollars, or both such fine and imprisonment~~ guilty of a class "D" felony.

Sec. 336. Section four hundred twenty-two point forty (422.40), subsection four (4), Code 1975, is amended to read as follows:

4. Any person, or any officer or employee of any corporation, or member or employee of any partnership, who, with intent to evade any requirement of this division or any lawful requirement of the director thereunder, shall fail to pay any tax or to make, sign, or verify any return or to supply any information required by or under the provisions of this division, shall be guilty of a serious misdemeanor ~~and punished accordingly~~. Any person, corporation, or any officer

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or employee of a corporation, or member or employee of any partnership, who, with intent to evade any of the requirements of this division, or any lawful requirements of the director thereunder, shall make, render, sign, or verify any false or fraudulent return or statement, or shall supply any false or fraudulent information, or who shall aid, abet, direct, cause, or who shall procure anyone so to do, shall be ~~liable to a penalty of not more than five thousand dollars, to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction, and shall also upon conviction be punished by imprisonment in the penitentiary for a term not exceeding one year, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or both~~ guilty of a fraudulent practice. Such penalty shall be in addition to all other penalties in this division provided.

Sec. 337. Section four hundred twenty-two point forty-two (422.42), subsection sixteen (16), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Every operator of a vending machine or amusement device equipment, the receipts from the operation of which are taxable under section 422.43, shall by means of a sticker identify each such machine operated by him to show the valid sales tax permit number issued to him under which the sales tax concerning the operation of each given machine is being reported and remitted to the department. The stickers shall be provided by the department and it shall be the duty of each operator to place and maintain same in a place easily seen by the user on each machine operated by him. Failure to so identify such machines shall be ~~unlawful and~~ a simple misdemeanor.

Sec. 338. Section four hundred twenty-two point forty-five (422.45), subsection seven (7), paragraph c, Code 1975, is amended to read as follows:

c. Any contractor who shall willfully make false report

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of tax paid under the provisions of this subsection shall be guilty of a simple misdemeanor and in addition thereto shall be liable for the payment of the tax with penalty and interest thereon.

Sec. 339. Section four hundred twenty-two point fifty-eight (422.58), subsections two (2) and three (3), Code 1975, are amended to read as follows:

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage in the rendering, furnishing, or performing services enumerated in section 422.43, in this state after his license shall have been revoked, or without procuring a license within sixty days after the effective date of this division, as provided in section 422.53, or who shall violate the provisions of section 422.49, and the officers of any corporation who shall so act, shall be guilty of a simple misdemeanor~~, punishment for which shall be a fine of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days in the discretion of the court~~.

3. Any person required to make, render, sign, or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a class "D" felony ~~and shall, for each such offense, be fined not less than five hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both such fine and imprisonment, in the discretion of the court~~.

Sec. 340. Section four hundred twenty-two point seventy-two (422.72), subsection two (2), Code 1975, is amended to read as follows:

2. Any person violating the provisions of subsection 1 of this section shall be guilty of a serious misdemeanor ~~and~~

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~~punishable by a fine not to exceed one thousand dollars.~~

Sec. 341. Section four hundred twenty-three point eleven (423.11), Code 1975, is amended to read as follows:

423.11 ABSORBING TAX PROHIBITED. It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this chapter will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. The director shall have the power to adopt and promulgate rules for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax. Any person violating any of the provisions of this section within this state shall be guilty of a simple misdemeanor ~~and subject to the penalties provided in section 423.20~~.

Sec. 342. Section four hundred twenty-three point nineteen (423.19), Code 1975, is amended to read as follows:

423.19 FRAUD. Any person required to make, render, sign, or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the tax, or amount required to be paid by this chapter, shall be guilty of a ~~felony and shall, for each such offense, be fined not less than five hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both such fine and imprisonment, in the discretion of the court~~ fraudulent practice.

Sec. 343. Section four hundred twenty-three point twenty (423.20), Code 1975, is amended to read as follows:

423.20 PENALTY. Any retailer or other person failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return or

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other data required by the director, shall be guilty of a simple misdemeanor ~~and subject to a fine of not to exceed one hundred dollars for each such offense, or to imprisonment for not to exceed thirty days, or to both such fine and imprisonment, in the discretion of the court~~.

Sec. 344. Section four hundred twenty-three point twenty-six (423.26), Code 1975, is amended to read as follows:

423.26 PENALTY FOR FALSE STATEMENT. Any person who willfully makes any false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 is guilty of a simple misdemeanor.

Sec. 345. Section four hundred twenty-three A point four (423A.4), Code 1975, is amended to read as follows:

423A.4 PENALTY. A person who violates the provisions of this chapter shall upon conviction be ~~punished by imprisonment in the county jail for not more than one year or be fined not more than ten thousand dollars or punished by both such imprisonment and fine~~ guilty of an aggravated misdemeanor.

Sec. 346. Section four hundred twenty-four point thirteen (424.13), subsection two (2), Code 1975, is amended to read as follows:

2. Any person required to make, render, sign, or verify any return or supplementary return, who makes any false or fraudulent return with the intent to defeat or evade the assessment required by law to be made, shall be guilty of a ~~felony and shall, for each such offense, be fined not less than five hundred dollars, nor not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both fine and imprisonment, in the discretion of the court~~ fraudulent practice.

Sec. 347. Section four hundred twenty-five point thirteen (425.13), Code 1975, is amended to read as follows:

425.13 CONSPIRACY TO DEFRAUD. If any two or more persons conspire and confederate together with fraudulent intent to obtain the credit provided for under the terms of this chap-

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ter by making a false deed, or a false contract of purchase, they are guilty of a ~~conspiracy-and-every-person-who-is-convicted-of-such-a-conspiracy-shall-be-imprisoned-in-the-county-jail-for-a-period-not-to-exceed-one-year,-or-shall-be-fined-in-a-sum-not-to-exceed-one-thousand-dollars,-or-shall-be-imprisoned-in-the-penitentiary-not-more-than-three-years~~ fraudulent practice.

Sec. 348. Section four hundred twenty-five point fourteen (425.14), Code 1975, is amended to read as follows:

425.14 FALSE AFFIDAVITS. Any person making a false claim or affidavit for the purpose of securing a homestead tax credit, or for the purpose of aiding another to secure such homestead tax credit, shall be guilty of a ~~misdemeanor-and,-upon-conviction,-shall-be-punished-by-a-fine-of-not-more-than-one-hundred-dollars,-or-by-imprisonment-in-the-county-jail-not-more-than-thirty-days,-or-by-both-such-fine-and-imprisonment~~ fraudulent practice.

Sec. 349. Section four hundred twenty-five point twenty-nine (425.29), Code 1975, is amended to read as follows:

425.29 FALSE CLAIM--PENALTY. Any person making a false affidavit for the purpose of obtaining reimbursement provided for in this division or who knowingly receives the reimbursement without being legally entitled to it or makes claim for the reimbursement in more than one county in the state shall be guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-fined-not-more-than-one-hundred-dollars-or-imprisoned-in-th-county-jail-for-not-more-than-thirty-days-or-be-subject-to-both-such-fine-and-imprisonment~~. An action under this section shall be brought in the county in which the affidavit was filed. The claim for reimbursement shall be disallowed in full and if the claim has been paid the amount may be recovered by assessment in the manner that income taxes are assessed pursuant to sections 422.26 and 422.30. The director of revenue shall send a notice of disallowance of the claim.

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Sec. 350. Section four hundred twenty-seven point seven (427.7), Code 1975, is amended to read as follows:

427.7 PENALTY. Any person making a false affidavit for the purpose of obtaining the exemption provided for in sections 427.3 to 427.6 or who knowingly receives such exemption without being legally entitled thereto, or who makes claim for exemption in more than one county in the state shall be guilty of a ~~misdemeanor-and-upon-conviction-thereof-fined not-more-than-one-hundred-dollars-or-imprisoned-in-the-county jail-for-not-more-than-thirty-days-or-be-both-so-fined-and imprisoned~~ fraudulent practice.

Sec. 351. Section four hundred twenty-seven point sixteen (427.16), subsection seven (7), Code 1975, is amended to read as follows:

7. PENALTY. If any person willfully makes or causes to be made any statement to the officer charged with assessment or valuation of property for tax purposes in his taxing district containing a false statement of a material fact, be he owner, shipper, storageman, or warehouseman, he shall be guilty of a ~~misdemeanor-and-upon-conviction-shall-be-punished-by-a-fine-of-not-less-than-one-hundred-dollars-or-more than-five-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-less-than-thirty-days-or-more-than-one-hundred fifty-days~~ fraudulent practice.

Sec. 352. Section four hundred twenty-seven A point four (427A.4), unnumbered paragraph five (5), Code 1975, is amended to read as follows:

Any person making a false affidavit for the purpose of obtaining the credit provided for in this section, or who knowingly receives such credit without being legally entitled thereto, or who makes claim for credit of more than ten thousand dollars in the state shall be guilty of a ~~misdemeanor and-upon-conviction-thereof-shall-be-fined-not-more-than-one hundred-dollars-or-imprisoned-in-the-county-jail-for-not-more than-thirty-days-or-be-both-so-fined-and-imprissioned~~

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fraudulent practice.

Sec. 353. Section four hundred twenty-eight A point ten (428A.10), Code 1975, is amended to read as follows:

428A.10 PENALTY. Any person, firm or corporation liable for the tax imposed by this chapter who knowingly fails to comply with the provisions of sections 428A.5 and 428A.6 relating to the attachment or cancellation of documentary stamps, shall be ~~subject to a fine of not less than one hundred dollars nor more than five hundred dollars~~ guilty of a simple misdemeanor.

Sec. 354. Section four hundred forty-one point nineteen (441.19), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The assessor shall list every person in his county or city as the case may be and assess all the property therein, personal and real, except such as is heretofore exempted or otherwise assessed. Any person who shall refuse to assist in making out a list of his property, or of any property which he is by law required to assist in listing, or who shall refuse to make either of the oaths or affirmations or combinations thereof required by section 441.20, shall be guilty of a simple misdemeanor ~~and, upon conviction thereof, shall be fined in a sum not to exceed five hundred dollars~~.

Sec. 355. Section four hundred forty-four point seven (444.7), Code 1975, is amended to read as follows:

444.7 EXCESSIVE TAX PROHIBITED. It is hereby made a simple misdemeanor for the board of supervisors to authorize, or the county auditor to carry upon the tax lists for any year, an amount of tax for any public purpose in excess of the amount certified or authorized as provided by law. The state comptroller shall prescribe and furnish the county auditors forms and instructions to aid them in determining the legality and authorized amount of tax levies. In the case of an excessive levy, it shall be the duty of the county auditor to reduce it to the maximum amount authorized by law,

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and in any event not in excess of the amount certified; and in case of an illegal levy the county auditor shall not enter or carry any tax on the tax lists for such levy.

Sec. 356. Section four hundred forty-four point seventeen (444.17), Code 1975, is amended to read as follows:

444.17 PEDDLING WITHOUT LICENSE. Any person peddling outside the limits of a city without such license or after the expiration thereof, shall be guilty of a simple misdemeanor, whether he be the owner of the goods sold or carried by him or not, and, on conviction thereof, shall forfeit and pay into the county treasury, in addition to the penalty imposed therefor, double the amount of the tax for one year as fixed in section 444.13.

Sec. 357. Section four hundred forty-four point nineteen (444.19), Code 1975, is amended to read as follows:

444.19 VIOLATIONS. Any person exhibiting any such show without first having obtained such license shall be guilty of a simple misdemeanor, and shall also forfeit and pay to the county treasurer double the amount fixed for such license, for the benefit of the school fund.

Sec. 358. Section four hundred forty-six point twenty-six (446.26), Code 1975, is amended to read as follows:

446.26 MISCONDUCT OF OFFICERS. Any treasurer or auditor failing to attend a sale of lands in person or by deputy shall ~~forfeit and pay the sum of one hundred dollars, to be recovered in an action in the name of the county and for its use~~ be guilty of a simple misdemeanor. If such officer or deputy shall sell or assist in selling any real estate, knowing it is not subject to taxation, or that the taxes for which it is sold have been paid, or shall knowingly and willfully sell or assist in selling any real estate for taxes to defraud the owner thereof, or shall knowingly and willfully execute a deed for property so sold, he shall, ~~upon conviction, be fined in a sum of not less than one thousand nor more than three thousand dollars, or imprisoned in the county~~

~~jail-not-exceeding-one-year,-or-both-fined-and-imprisoned,~~ be guilty of a serious misdemeanor and shall be liable to pay the injured party all damages sustained by him on account thereof, and all such sales shall be void.

Sec. 359. Section four hundred forty-six point twenty-seven (446.27), Code 1975, is amended to read as follows:

446.27 FRAUD OF OFFICERS. If any treasurer or auditor shall be directly or indirectly concerned in the purchase of any real estate sold for the nonpayment of taxes, he and his sureties shall be liable on his official bond for all damages sustained by the owner of such property, and all such sales shall be void. In addition thereto, the officer so offending shall, ~~upon-conviction,~~ be ~~fined-in-a-sum-of-not more-than-one-thousand-dollars~~ guilty of a fraudulent practice.

Sec. 360. Section four hundred fifty point fifty (450.50), Code 1975, is amended to read as follows:

450.50 REMOVAL OF PROPERTY FROM STATE--BOND. It shall be unlawful for any person to remove from this state any property, or the proceeds thereof, that may be subject to the tax imposed by this chapter, without paying the said tax to the department of revenue. Any person violating the provision of this section shall be guilty of a ~~felony~~ serious misdemeanor and upon conviction shall be fined an amount equal to twice the amount of tax, interest, and costs for which the estate may be liable, ~~but-in-no-case-less-than-two-hundred dollars,-and-imprisoned-as-the-court-shall-direct,-until-the fine-is-paid~~; provided, however, that the penalty hereby imposed shall not be enforced if, prior to the removal of such property or the proceeds thereof, the person desiring to effect such removal files with the clerk a bond conditioned upon the payment of the tax, interest, and costs, as is provided in section 450.49 hereof.

Sec. 361. Section four hundred fifty-two point three (452.3), Code 1975, is amended to read as follows:

452.3 DISCOUNTING WARRANTS. If the ~~state~~ treasurer of

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state or any county treasurer, by himself or through another, discounts state comptroller's or auditor's warrants, either directly or indirectly, he shall ~~upon-conviction-be-fined in-any-sum-not-exceeding-one-thousand-dollars~~ be guilty of a serious misdemeanor.

Sec. 362. Section four hundred fifty-two point four (452.4), Code 1975, is amended to read as follows:

452.4 LOANS BY COUNTY TREASURER. A county treasurer shall be ~~liable-to-a-like-fine~~ guilty of a serious misdemeanor for loaning out, or in any manner using for private purposes, state, county, or other funds in his hands.

Sec. 363. Section four hundred fifty-two point five (452.5), Code 1975, is amended to read as follows:

452.5 LOANS BY ~~STATE~~ TREASURER OF STATE. The ~~state~~ treasurer of state shall be ~~liable-to-a-fine-of-not-more-than ten-thousand-dollars-for-a-like~~ guilty of a serious misdemeanor for a like violation.

Sec. 364. Section four hundred fifty-two point fourteen (452.14), Code 1975, is amended to read as follows:

452.14 FALSE STATEMENTS OR REPORTS. Any officer or other person making a false statement or report or in any manner violating any of the provisions of sections 452.10 to 452.13, shall be guilty of a ~~misdemeanor-and-shall-be-liable-to-a fine-of-not-less-than-five-hundred-dollars~~ fraudulent practice.

Sec. 365. Section four hundred fifty-two point fifteen (452.15), Code 1975, is amended to read as follows:

452.15 OFFICIAL DELINQUENCY. If any auditor or treasurer or other officer shall neglect or refuse to perform any act or duty specifically required of him, such officer shall be guilty of a simple misdemeanor, ~~and,-upon-conviction,-shall be-fined-in-any-sum-not-exceeding-one-thousand-dollars,~~ and he and his bondsmen shall be liable on his official bond for ~~such-fine~~ any fine imposed, and for the damages sustained by any person through such neglect or refusal.

Sec. 366. Section four hundred fifty-five point one hun-

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dred sixty (455.160), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person or persons willfully diverting, obstructing, impeding, or filling up, without legal authority, any ditch, drain, or watercourse or breaking down or injuring any levee or the bank of any settling basin, established, constructed, and maintained under any provision of law, or obstructing, or engaging in travel or agricultural practices upon the improvement or rights of way of a levee or drainage district which the governing body thereof has, by resolution, determined to be injurious to such improvement or to interfere with its proper preservation, operation, or maintenance, and has prohibited, shall be deemed guilty of a serious misdemeanor ~~and punished accordingly~~ and any such unlawful act as above described is hereby declared to be a nuisance and may be abated as such.

Sec. 367. Section four hundred fifty-five A point thirty-nine (455A.39), Code 1975, is amended to read as follows:

455A.39 PENALTIES. Whoever is convicted of erecting, causing or continuing a common or public nuisance, as provided in this chapter, or whoever diverts or withdraws water in violation of the provisions of this chapter, upon conviction, shall be ~~fined not exceeding one hundred dollars or be imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor and each day that such violation continues after conviction shall be considered a separate offense.

Sec. 368. Section four hundred fifty-five B point sixty-four (455B.64), Code 1975, is amended to read as follows:

455B.64 MISDEMEANOR. Any person, including any firm, corporation, municipal corporation, or other governmental subdivision or agency, violating any provisions of this part 2 of division III or the rules adopted thereunder after written notice thereof by the executive director is guilty of a simple misdemeanor. Each day of operation in such violation

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of said part or any rules adopted thereunder shall constitute a separate offense. ~~Upon conviction, such persons shall be fined not exceeding one hundred dollars, or be imprisoned in the county jail for not more than thirty days, or by both such fine and imprisonment.~~ It shall be the duty of the appropriate county attorney to secure injunctions of continuing violations of any provisions of said part or the rules adopted thereunder.

Sec. 369. Section four hundred fifty-five B point ninety-four (455B.94), Code 1975, is amended to read as follows:

455B.94 PENALTY. Any person who violates any provisions of this part 2 of division IV or rules adopted under said part, or any order of the commission or executive director issued pursuant to said part, shall be ~~punished by a fine of not more than five hundred dollars or by imprisonment not to exceed six months or punished by both such fine and imprisonment~~ be guilty of a serious misdemeanor and, in addition, he may be enjoined from continuing such violation. Each day of continued violation after notice that a violation is being committed shall constitute a separate violation.

Sec. 370. Section four hundred fifty-five B point ninety-eight (455B.98), Code 1975, is amended to read as follows:

455B.98 PENALTY. Any person violating the provisions of section 455B.97, ~~shall be guilty of a misdemeanor and,~~ upon conviction, shall be ~~subject to a fine of not less than fifteen dollars nor more than one hundred dollars or be imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor. The court, in lieu of or in addition to any other sentence imposed, may direct and supervise a labor of litter gathering.

Sec. 371. Section four hundred fifty-five B point one hundred five (455B.105), Code 1975, is amended to read as follows:

455B.105 PENALTY. Any person violating the provisions

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of sections 455B.100 to 455B.103 or the rules adopted by the commission under said sections is guilty of a simple misdemeanor.

Sec. 372. Section four hundred sixty-nine point thirteen (469.13), Code 1975, is amended to read as follows:

469.13 VIOLATIONS. The construction, maintenance, or operation of a dam for the purpose specified herein without a permit first being issued, as in this chapter provided, shall constitute a simple misdemeanor~~,-and-shall-be-punishable-by-a-fine-of-not-less-than-one-hundred-dollars-nor-more than-five-hundred-dollars~~.

Sec. 373. Section four hundred sixty-nine A point seven (469A.7), Code 1975, is amended to read as follows:

469A.7 PENALTY. Any person, firm, association or corporation who shall violate the provisions of section 469A.1, shall be guilty of a serious misdemeanor ~~and-upon-conviction shall-be-punished-by-a-fine-of-not-less-than-one-hundred dollars-nor-more-than-one-thousand-dollars,-or-shall-be imprisoned-in-the-county-jail-for-not-less-than-thirty-days nor-more-than-six-months,-or-by-both-such-fine-and-imprisonment~~. Each separate day that a violation occurs shall constitute a separate offense.

Sec. 374. Section four hundred seventy-four point twenty-one (474.21), Code 1975, is amended to read as follows:

474.21 HINDERING OR OBSTRUCTING DEPARTMENT. Any person who shall willfully obstruct it or its members in the performance of their duties, or who shall refuse to give any information within his possession that may be required by it within the line of its duty, shall be ~~fined-not-exceeding-one-thousand-dollars,-in-the-discretion-of-the-court~~ guilty of a simple misdemeanor.

Sec. 375. Section four hundred seventy-seven point eleven (477.11), Code 1975, is amended to read as follows:

477.11 VIOLATIONS. Any railway company violating the provisions of sections 477.9 and 477.10, and any agent,

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telephone or telegraph operator of such railroad company violating the provisions of section 477.10 in relation to posting bulletins in the waiting room indicating when the trains are late or on time, shall be ~~punished by a fine of not less than five dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 376. Section four hundred seventy-seven point fifteen (477.15), Code 1975, is amended to read as follows:

477.15 VIOLATIONS. Any corporation, company, or person operating a railroad in this state and using a locomotive engine, or running a train of cars, or using any freight, way, or other car contrary to the provisions of sections 477.12 to 477.14 shall be guilty of a serious misdemeanor~~, and shall be subject to a fine of not less than five hundred nor more than one thousand dollars for each and every offense~~; but such penalties shall not apply to companies hauling cars belonging to railroads other than those of this state which are engaged in interstate traffic.

Sec. 377. Section four hundred seventy-seven point nineteen (477.19), Code 1975, is amended to read as follows:

477.19 VIOLATIONS. Any person, railway company, terminal transfer, or other corporation or company who violates any of the provisions of section 477.17 shall be deemed guilty of a serious misdemeanor ~~and upon conviction shall be punished by a fine of not less than fifty dollars or more than five hundred dollars for any such violation~~, and each day that every such engine is operated shall constitute a separate and distinct violation of said section.

Sec. 378. Section four hundred seventy-seven point twenty-one (477.21), Code 1975, is amended to read as follows:

477.21 VIOLATIONS. Any violation of section 477.20 shall be ~~punished by a fine of not less than fifty dollars nor more than one hundred dollars~~ deemed a simple misdemeanor for each day any locomotive engine is operated in violation thereof.

Sec. 379. Section four hundred seventy-seven point twenty-

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four (477.24), Code 1975, is amended to read as follows:

477.24 VIOLATIONS. Any person, firm, or corporation owning such line of railway or the equipment operated thereon, who shall cause or permit any locomotive, power vehicle, power car, or other equipment used as the equivalent thereof, to be operated without being equipped with the headlight required by the provisions of section 477.22 shall be deemed guilty of a serious misdemeanor ~~and, upon conviction, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense.~~

Sec. 380. Section four hundred seventy-seven point twenty-eight (477.28), Code 1975, is amended to read as follows:

477.28 VIOLATIONS. Any common carrier as provided in section 477.26 violating any of the provisions of section 477.27 shall be deemed guilty of a simple misdemeanor, ~~and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars for each offense.~~

Sec. 381. Section four hundred seventy-seven point thirty-three (477.33), Code 1975, is amended to read as follows:

477.33 PENALTY. Each and every steam railroad company failing to provide and maintain in good condition and working order an automatic firebox door as required and provided for in sections 477.29 to 477.31 shall be guilty of a serious misdemeanor ~~and shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars~~ for each and every day such locomotive is operated in this state without such automatic door.

Sec. 382. Section four hundred seventy-seven point forty (477.40), Code 1975, is amended to read as follows:

477.40 VIOLATIONS. Any railroad company which after receiving said notice fails to comply, within the time fixed, with the provisions of section 477.37, shall be guilty of a simple misdemeanor ~~and upon conviction shall be fined not exceeding one hundred dollars for each offense~~ and the in-

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spector shall file information in such a case.

Sec. 383. Section four hundred seventy-seven point forty-four (477.44), Code 1975, is amended to read as follows:

477.44 VIOLATIONS. If any officer, agent, or employee of any such company, or any lessee, engaged in operating any sleeper or sleeping-car line terminating or operated within the state, shall neglect or refuse to comply with any of the provisions of sections 477.42 and 477.43, he shall be guilty of a simple misdemeanor~~,-and,-upon-conviction-thereof,-fined in-a-sum-not-exceeding-five-hundred-dollars,-and-imprisoned not-more-than-six-months~~.

Sec. 384. Section four hundred seventy-seven point forty-seven (477.47), Code 1975, is amended to read as follows:

477.47 VIOLATIONS--INVESTIGATION--PROSECUTIONS. Any superintendent, trainmaster, train dispatcher, yardmaster, or other official of any railroad in the state, violating any of the provisions of section 477.45, shall be deemed guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-punished by-a-fine-of-not-less-than-one-hundred-dollars-and-not-more than-five-hundred-dollars-for-each-offense~~.

Sec. 385. Section four hundred seventy-seven point fifty-two (477.52), Code 1975, is amended to read as follows:

477.52 VIOLATIONS. Any corporation violating section 477.51 shall be deemed guilty of a simple misdemeanor ~~and fined-in-a-sum-not-less-than-twenty-five-dollars,-nor-more than-one-hundred-dollars,-for-each-separate-offense~~, and each and every failure or refusal to pay each employee the amount of wages due him or her at the time, or under the conditions required in section 477.51, shall constitute a separate offense.

Sec. 386. Section four hundred seventy-seven point fifty-four (477.54), Code 1975, is amended to read as follows:

477.54 VIOLATIONS. Any failure to comply with the provisions of section 477.53 shall be deemed a simple misdemeanor ~~and-shall-be-punished-accordingly~~.

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Sec. 387. Section four hundred seventy-seven point sixty (477.60), Code 1975, is amended to read as follows:

477.60 VIOLATIONS. A failure to comply with the order of the state department of transportation within thirty days from service of such notice shall also be a simple misdemeanor~~, for which said company shall be subject to a fine of one thousand dollars~~, and noncompliance for each thirty days thereafter shall constitute a separate and distinct offense~~, subject to a fine of one thousand dollars~~.

Sec. 388. Section four hundred seventy-seven point sixty-two (477.62), Code 1975, is amended to read as follows:

477.62 PENALTY. Any railroad found guilty of violating the provisions of section 477.61 shall be ~~fined not less than twenty-five dollars nor more than one hundred dollars for each violation~~ guilty of a simple misdemeanor.

Sec. 389. Section four hundred seventy-seven point sixty-three (477.63), Code 1975, is amended to read as follows:

477.63 SCREEN EXHAUST FIRE CONTROLS. No locomotive or other rolling stock shall be operated unless it is equipped with proper deflector and screen exhaust fire controls and uses adequate devices to prevent the escape of blowing or burning materials or substances and is maintained in good working order to protect against the start and spread of fires along the right of way. A violation of this section shall be a simple misdemeanor ~~punishable by a fine of not more than one hundred dollars or thirty days in jail~~. The railroad, and any officers, agent, lessee or independent contractor found guilty of a violation of this section shall be ~~punishable by a fine of not more than one hundred dollars or thirty days in jail~~ guilty of a simple misdemeanor.

Sec. 390. Section four hundred seventy-eight point ten (478.10), Code 1975, is amended to read as follows:

478.10 FAILURE TO FENCE--GENERAL PENALTY. If the corporation, officer thereof or lessee owning or engaged in the operation of any railroad in the state refuses or neglects

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to comply with any provision of this chapter relating to the fencing of the tracts, such corporation, officer, or lessee shall be guilty of a simple misdemeanor~~,-and-upon-conviction-fined-in-a-sum-not-exceeding-five-hundred-dollars-for-each-offense~~, and every thirty days' continuance of such refusal or neglect shall constitute a separate and distinct offense.

Sec. 391. Section four hundred seventy-eight point twenty (478.20), Code 1975, is amended to read as follows:

478.20 VIOLATIONS. Any officer or employee of any railway company violating any of the provisions of section 478.19 shall be ~~punished-by-a-fine-not-exceeding-one-hundred-dollars-for-each-offense~~ guilty of a simple misdemeanor.

Sec. 392. Section four hundred seventy-eight point thirty-two (478.32), Code 1975, is amended to read as follows:

478.32 VIOLATIONS. Any person in charge of an interurban car or cars, who shall violate the provisions of section 478.30 and any engineer or person in charge of an engine, who shall violate the provisions of section 478.31 shall be ~~fined-for-each-offense-not-exceeding-one-hundred-dollars~~ guilty of a simple misdemeanor; and the corporation or company on whose road such offense is committed, shall be ~~fined-not-exceeding-two-hundred-dollars-for-each-offense~~ guilty of a simple misdemeanor.

Sec. 393. Section four hundred seventy-nine point nineteen (479.19), Code 1975, is amended to read as follows:

479.19 "EXTORTION" DEFINED--PENALTY. If any railway corporation or carrier subject to the provisions of this chapter shall charge, collect, demand, or receive more than a fair and reasonable rate of toll or compensation for the transportation of passengers or freight of any description, or for the use and transportation of any railway car upon its track or any of the branches thereof, or upon any railroad within the state which it has the right, license or permission to use, operate, or control; or shall make any un-

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just and unreasonable charge prohibited in this chapter, it shall be deemed guilty of ~~extortion, and be dealt with as hereinafter provided~~ a fraudulent practice; and if any such railroad corporation or common carrier shall be found guilty of any unjust discrimination as defined in this chapter it shall, upon conviction thereof, be dealt with as hereinafter provided.

Sec. 394. Section four hundred seventy-nine point twenty-nine (479.29), Code 1975, is amended to read as follows:

479.29 PENALTY FOR DISCRIMINATION. Any ~~such~~ corporation ~~guilty of extortion, or of~~ making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freights, ~~shall, upon conviction thereof, be fined in any sum not less than one thousand nor more than five thousand dollars for the first offense, and for each subsequent offense not less than five thousand nor more than ten thousand dollars--such fine to be imposed in a criminal prosecution by indictment~~ be guilty of an aggravated misdemeanor; or shall be subject to the liability prescribed in section 479.30, to be recovered as therein provided.

Sec. 395. Section four hundred seventy-nine point thirty (479.30), Code 1975, is amended to read as follows:

479.30 CIVIL FORFEITURE. Any ~~such~~ railway corporation ~~guilty of extortion, or of~~ making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freights, shall ~~forfeit and pay to the state not less than one thousand nor more than five thousand dollars for the first offense, and not less than five thousand nor more than ten thousand dollars for each subsequent offense, to be recovered in a civil action in the name of the state, and the release from liability or penalty provided for in this chapter shall not apply to a criminal prosecution under section 479.29, or to a civil action under this sec-~~

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~~tion~~ be guilty of a fraudulent practice.

Sec. 396. Section four hundred seventy-nine point seventy-nine (479.79), Code 1975, is amended to read as follows:

479.79 VIOLATIONS. Any railroad in this state engaged in the transportation of livestock, and failing or refusing to comply with the requirements of section 479.78 shall be deemed guilty of a simple misdemeanor~~,-and-upon-conviction thereof-shall-be-fined-not-less-than-one-hundred-dollars-for each-day's-negligence-or-refusal-to-comply-therewith,-and all-moneys-so-collected-as-fines-shall-be-paid-into-the-public-school-funds-of-the-state~~.

Sec. 397. Section four hundred seventy-nine point eighty-eight (479.88), Code 1975, is amended to read as follows:

479.88 WHEN UNLOADING NOT REQUIRED--VIOLATIONS. When such animals shall be carried in cars in which they shall and do have proper food, water, space and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply. Any railway company, owner or custodian of such animals, who shall fail to comply with the provisions of sections 479.85 to 479.87 shall~~,-for-each-and every-such-offense,-be-liable-for-and-forfeit-and-pay-a-penalty-of-not-less-than-one-hundred-nor-more-than-five-hundred dollars~~ be guilty of a simple misdemeanor.

Sec. 398. Section four hundred seventy-nine point ninety-seven (479.97), Code 1975, is amended to read as follows:

479.97 VIOLATIONS. Any common carrier, its officer, agent, or representative, violating any of the provisions of sections 479.93 to 479.96, shall be ~~fined-in-a-sum-not less-than-one-hundred-dollars-and-not-more-than-ten-hundred dollars-for-each-offense,-or-in-the-discretion-of-the-court shall-be-imprisoned-in-the-county-jail-for-not-less-than thirty-and-not-more-than-ninety-days~~ guilty of a simple misdemeanor; and any person other than the persons excepted in sections 479.94 and 479.95 who accepts or uses any free ticket, free pass, or free transportation for carriage or

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passage within this state shall be subject to a like penalty.

Sec. 399. Section four hundred seventy-nine point one hundred eight (479.108), Code 1975, is amended to read as follows:

479.108 VIOLATION--PENALTY. Any common carrier operating in this state violating any of the provisions of sections 479.103 to 479.107 by neglecting or refusing to weigh cars or to furnish certificates of weights as therein provided shall be guilty of a simple misdemeanor ~~and shall be, upon conviction thereof, fined in the sum of not more than one hundred twenty-five dollars for each and every violation.~~

Sec. 400. Section four hundred seventy-nine point one hundred fifteen (479.115), Code 1975, is amended to read as follows:

479.115 VIOLATIONS. Any common carrier subject to the provisions of sections 479.109 to 479.114 or any director or officer thereof, or any receiver, trustee, lessee, agent, or employee, who alone, or with any other director, officer, receiver, trustee, lessee, agent, or employee, shall willfully take, use, divert, or appropriate any coal, coke, or oil, or suffer or permit the same to be taken, shall be guilty of a simple misdemeanor~~, and upon conviction thereof, be fined not more than five thousand dollars, nor less than five hundred dollars for each offense~~.

Sec. 401. Section four hundred eighty-four point twenty-eight (484.28), Code 1975, is amended to read as follows:

484.28 VIOLATIONS. Every person, partnership, company, or corporation owning or operating a street railway in this state who shall fail to comply with the provisions of section 484.27 shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars for each offense~~. Any failure to comply with the provisions of section 484.27 shall be deemed a separate offense.

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Sec. 402. Section four hundred eighty-eight point six (488.6), Code 1975, is amended to read as follows:

488.6 DELAY--WILLFUL ERROR--REVEALING CONTENTS. Any person employed in transmitting messages by telegraph or telephone must do so with fidelity and without unreasonable delay, and if anyone willfully fails thus to transmit them, or intentionally transmits a message erroneously, or makes known the contents of any message sent or received to any person except him to whom it is addressed, or his agent or attorney, or willfully and wrongfully takes or receives any telegraph or telephone message, he is guilty of a simple misdemeanor.

Sec. 403. Section four hundred eighty-nine point twenty-four (489.24), Code 1975, is amended to read as follows:

489.24 VIOLATIONS. Any person, company, or corporation constructing or undertaking to construct or maintain any electric transmission line, without first procuring a franchise for such purpose in accordance with the provisions of this chapter, shall be ~~fined in the sum of not less than one hundred dollars nor more than one thousand dollars~~ guilty of a serious misdemeanor; and for violating any of the other provisions of this chapter relating to electric transmission lines or disobeying any order or rule made by the state commerce commission in relation thereto, shall be ~~fined not exceeding one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 404. Section four hundred ninety-one point forty (491.40), Code 1975, is amended to read as follows:

491.40 FRAUD--PENALTY FOR. Intentional fraud in failing to comply substantially with the articles of incorporation, or in deceiving the public or individuals in relation to their means or their liabilities, shall be a ~~misdemeanor, and shall subject those guilty thereof to fine and imprisonment, or both, at the discretion of the court~~ fraudulent practice. Any person who has sustained injury from such fraud may also recover damages therefor against those guilty of participating

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in such fraud.

Sec. 405. Section four hundred ninety-one point forty-three (491.43), Code 1975, is amended to read as follows:

491.43 KEEPING FALSE ACCOUNTS. The intentional keeping of false books or accounts shall be a ~~misdemeanor~~ fraudulent practice on the part of any officer, agent, or employee of the corporation guilty thereof, or of anyone whose duty it is to see that such books or accounts are correctly kept.

Sec. 406. Section four hundred ninety-one point sixty-eight (491.68), Code 1975, is amended to read as follows:

491.68 FALSE STATEMENTS OR PRETENSES. Every director, officer, or agent of any corporation or joint-stock association, who knowingly concurs in making, publishing, or posting, either generally or privately to the stockholders or other persons, any written report, exhibit, or statement of its affairs or pecuniary condition, or book or notice containing any material statement which is false, or any untrue or willfully or fraudulently exaggerated report, prospectus, account, statement of operations, values, business, profits, expenditures, or prospects, or any other paper or document intended to produce or give, or having a tendency to produce or give, the shares of stock in such corporation a greater value or a less apparent or market value than they really possess, is guilty of a ~~felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary not to exceed one year, or by imprisonment in the county jail not to exceed six months or a fine not exceeding five hundred dollars~~ fraudulent practice.

Sec. 407. Section four hundred ninety-one point seventy-one (491.71), Code 1975, is amended to read as follows:

491.71 VIOLATIONS. Any person convicted of a violation of any of the provisions of sections 491.69 and 491.70 shall be ~~punished by imprisonment in the county jail not less than six months or more than one year and, in the discretion of the court, by fine not exceeding ten hundred dollars~~ guilty

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of a serious misdemeanor.

Sec. 408. Section four hundred ninety-two point three (492.3), Code 1975, is amended to read as follows:

492.3 PENALTIES. Any person violating the provisions of sections 492.1 and 492.2, or knowingly making a false statement on such certificate, shall be ~~fined not less than one hundred dollars nor more than five hundred dollars, and shall stand committed to the county jail until such fine and costs are paid~~ guilty of a fraudulent practice.

Sec. 409. Section four hundred ninety-two point twelve (492.12), Code 1975, is amended to read as follows:

492.12 VIOLATIONS. Any officer, agent or representative of a corporation who violates any of the provisions of sections 492.5 to 492.8 shall, ~~upon conviction, be fined not less than two hundred dollars nor more than ten hundred dollars, and be imprisoned in the county jail for not less than thirty days nor more than six months~~ be guilty of a simple misdemeanor.

Sec. 410. Section four hundred ninety-four point thirteen (494.13), Code 1975, is amended to read as follows:

494.13 VIOLATIONS BY OFFICERS. Any agent, officer, or employee who shall knowingly act or transact such business for such corporation, when it has no valid permit as provided herein, shall be guilty of a simple misdemeanor, ~~and for such offense shall be fined not to exceed one hundred dollars, or be imprisoned in the county jail not to exceed thirty days, or be punished by both such fine and imprisonment, and pay all costs of prosecution~~.

Sec. 411. Section four hundred ninety-six A point one hundred thirty-one (496A.131), Code 1975, is amended to read as follows:

496A.131 PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS. Each officer and director of a corporation, domestic or foreign, who willfully fails or refuses within the time prescribed by this chapter to answer truthfully and fully rea-

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sonable and proper interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a ~~misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars~~ fraudulent practice.

Sec. 412. Section four hundred ninety-six A point one hundred forty-five (496A.145), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person convicted of a violation of any of the provisions of this section shall be ~~punished by imprisonment in the county jail not less than six months or more than one year and, in the discretion of the court, by a fine not exceeding ten hundred dollars~~ guilty of a serious misdemeanor.

Sec. 413. Section five hundred one point six (501.6), Code 1975, is amended to read as follows:

501.6 UNAUTHORIZED COMPANIES--PENALTY. Any member or representative of any association who shall attempt to issue or sell any stock as contemplated by this chapter or to transact any business whatsoever in the name of or on behalf of such association, not authorized to do business within this state, or which has failed or refused to comply with the provisions of this chapter, or has violated any of its provisions shall be deemed guilty of a serious misdemeanor ~~and on conviction thereof shall be punished by imprisonment in the county jail not to exceed one year, or by a fine of not less than one hundred nor more than ten hundred dollars or by both such fine and imprisonment in the discretion of the court.~~

Sec. 414. Section five hundred two point twenty-six (502.26), Code 1975, is amended to read as follows:

502.26 FALSE STATEMENTS, ENTRIES, AND REPRESENTATIONS.

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Any person, firm, association, company, or corporation subject to the provisions of this chapter, that shall subscribe or cause to be made any false statement or false entry in any book required to be kept or relating to any business to be transacted in this state pursuant to the provisions of this chapter, or make or subscribe to any false statement, exhibit or paper filed with the commissioner of insurance, or shall make to the commissioner of insurance, his superintendent, agent, or representative any false or fraudulent statement concerning the proposed plan of business to be transacted, or the nature, value or character of securities to be sold in this state, or shall make to said commissioner of insurance, his superintendent, agent or representative any false statement as to the financial condition of such person, firm, association, company, or corporation shall be deemed guilty of a ~~felony, and upon conviction shall be fined in the sum of not more than five thousand dollars, or imprisoned not to exceed five years in the penitentiary or reformatory, or by both such fine and imprisonment in the discretion of the court~~ fraudulent practice.

Sec. 415. Section five hundred two point twenty-seven (502.27), Code 1975, is amended to read as follows:

502.27 GENERAL VIOLATIONS. Any person, firm, association, company, or corporation subject to the provisions of this chapter that shall sell or negotiate for the sale of any securities within this state without complying with the provisions of this chapter, or that continues to sell, offer for sale, or negotiates for the sale of securities in this state after his registration has been revoked or canceled by the commissioner of insurance, or that shall otherwise neglect or refuse to comply with any of the provisions of this chapter, shall be guilty of a serious misdemeanor ~~and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail not to exceed six months or by both such fine~~

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and-imprisonment-in-the-discretion-of-the-court, and if it shall be found that any such person is guilty of such a violation with the intent to defraud he shall be guilty of a class "D" felony and-upon-conviction-thereof-shall-be-fined not-to-exceed-five-thousand-dollars-or-be-imprisoned-not-to exceed-five-years-in-the-penitentiary-or-reformatory-or-by both-such-fine-and-imprisonment-in-the-discretion-of-the court.

Sec. 416. Section five hundred two point twenty-eight (502.28), Code 1975, is amended to read as follows:

502.28 FALSE REPRESENTATIONS. Any person, firm, association, company, or corporation, or any agent or representative thereof, whether subject to the provisions of this chapter or otherwise, that sells, offers for sale, or negotiates for the sale of any securities within this state, and knowingly makes any false representations or statements as to the nature, character, or value of such security, or the amount of the earning power of such security whether in the nature of interest, dividends, or otherwise, or knowingly makes any other false or fraudulent representation to any person for the purpose of inducing said person to purchase said security, or conceals any material fact in the advertisement or prospectus of such security for the purpose of defrauding the purchaser, shall be deemed guilty of a felony and-upon-conviction-thereof-shall-be-punished-by-a-fine-of not-less-than-five-hundred-dollars-nor-more-than-five-thousand-dollars-or-by-imprisonment-in-the-penitentiary-or reformatory-for-not-more-than-five-years-or-by-both-such-fine and-imprisonment fraudulent practice.

Sec. 417. Section five hundred two point twenty-nine (502.29), Code 1975, is amended to read as follows:

502.29 PROMOTION BY STATE OFFICIALS AND EMPLOYEES. No state official or employee of the state shall use his name in his official capacity in connection with the endorsement or recommendation of the organization or the promotion of

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any company or in the disposal to the public of its securities, nor shall anyone use the stationery of the state or of any official thereof in connection with any such transaction. Whoever violates the aforesaid provision shall, upon conviction by any court of competent jurisdiction, be deemed guilty of a serious misdemeanor ~~and fined in any sum not to exceed five hundred dollars or be punished by confinement in a county jail for not more than ninety days or by both such fine and imprisonment~~.

Sec. 418. Section five hundred two point thirty (502.30), Code 1975, is amended to read as follows:

502.30 SECRET AGENTS--FAILURE TO DISCLOSE INTEREST. Any individual, not licensed as a dealer or salesman, who, with intent to secure financial gain for himself, advises and procures or assists in procuring any person to purchase any securities contemplated by this chapter and who receives for such service any commission or reward, without disclosing to the purchaser the fact of his interest shall, in addition to any other penalty, be guilty of a simple misdemeanor.

Sec. 419. Section five hundred three point thirteen (503.13), Code 1975, is amended to read as follows:

503.13 MISDEMEANOR. Any member, salesman, agent, or representative of any association, who shall attempt to issue any membership as contemplated by this chapter, or to transact any business whatsoever, in the name of or on behalf of such association not authorized to do business in this state, or which has failed or refused to comply with the provisions of this chapter, or has violated any of its provisions, shall be deemed guilty of a an aggravated misdemeanor~~, and on conviction thereof shall be punished by imprisonment in the penitentiary not to exceed five years, or fined not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment~~.

Sec. 420. Section five hundred four point thirteen (504.13), Code 1975, is amended to read as follows:

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504.13 PENALTY. A violation of section 504.12 by a corporation shall be ~~punished by a fine of not more than one thousand dollars~~ a fraudulent practice. A violation of section 504.12 by an individual conducting an academic course or by an officer or managing head of a corporation shall be ~~punished by imprisonment in the penitentiary or men's or women's reformatory not more than seven years, or by fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment~~ a fraudulent practice.

Sec. 421. Section five hundred four A point eighty-seven (504A.87), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Each corporation, domestic or foreign, that fails or refuses to answer truthfully and fully within the time prescribed by this chapter reasonable and proper interrogatories propounded by the secretary of state in accordance with the provisions of this chapter, shall be deemed to be guilty of a simple misdemeanor ~~and upon conviction thereof may be fined in an amount not exceeding five hundred dollars~~.

Sec. 422. Section five hundred four A point eighty-eight (504A.88), Code 1975, is amended to read as follows:

504A.88 PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS. Each director and officer of a corporation, domestic or foreign, who willfully fails or refuses within the time prescribed by this chapter to answer truthfully and fully reasonable and proper interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a simple misdemeanor, ~~and upon conviction thereof may be fined in any amount not exceeding five hundred dollars~~.

Sec. 423. Section five hundred six point seven (506.7),

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Code 1975, is amended to read as follows:

506.7 PENALTY. Any person who violates any of the provisions of the preceding sections of this chapter, or who violates any order of the commissioner of insurance made by authority thereof, shall be guilty of a simple misdemeanor~~, and upon conviction thereof shall be punished by fine not to exceed one thousand dollars, and by imprisonment in the county jail not to exceed six months~~.

Sec. 424. Section five hundred seven point sixteen (507.16), Code 1975, is amended to read as follows:

507.16 UNLAWFUL SOLICITATION OF BUSINESS. Any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, solicits insurance for said company, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said company, shall be deemed guilty of a serious misdemeanor ~~and shall be subject to the penalties provided in sections 511.16 and 511.17~~, and the provisions of said sections are hereby extended to all companies contemplated by this chapter.

Sec. 425. Section five hundred seven A point ten (507A.10), Code 1975, is amended to read as follows:

507A.10 PENALTIES. Any unauthorized foreign or alien insurer who does any unauthorized act of an insurance business as set forth in this chapter shall be ~~fined not more than five thousand dollars. In addition to any other penalty provided for in this chapter or otherwise provided by law, any person or insurer violating this chapter shall forfeit to the state the sum of five hundred dollars for each offense and an additional sum of five hundred dollars for each month during which any such person or insurer continues such violation~~ guilty of a fraudulent practice.

Sec. 426. Section five hundred eight point twenty-seven

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(508.27), Code 1975, is amended to read as follows:

508.27 VIOLATIONS. Any company violating any of the provisions of section 508.25 shall~~, upon conviction thereof,~~ be ~~fined in a sum not less than one hundred nor more than one thousand dollars for each such offense~~ guilty of a simple misdemeanor, and the court may also revoke its authority to do business within this state.

Sec. 427. Section five hundred nine point eighteen (509.18), Code 1975, is amended to read as follows:

509.18 PROHIBITED DEPOSIT IN FINANCIAL INSTITUTION. A company or its agent licensed to sell a policy of credit life or credit accident and health insurance or certificate under a policy of group credit life or credit accident and health insurance shall not deposit or offer to deposit funds in a financial institution of this state in exchange for the privilege of selling such insurance to or on behalf of the financial institution. Any person violating the provisions of this section shall be guilty of a simple misdemeanor.

Sec. 428. Section five hundred eleven point sixteen (511.16), Code 1975, is amended to read as follows:

511.16 ILLEGAL BUSINESS. Any officer, manager, or agent of any life insurance company or association who, with knowledge that it is doing business in an unlawful manner or is insolvent, solicits insurance with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of a an aggravated misdemeanor~~, and for every such act, on conviction thereof, shall be adjudged to pay a fine of not less than one hundred nor more than one thousand dollars, or be imprisoned in the county jail not exceeding one year, or be punished by both such fine and imprisonment~~.

Sec. 429. Section five hundred eleven point eighteen (511.18), Code 1975, is amended to read as follows:

511.18 FRAUD IN PROCURING INSURANCE. Any agent, physi-

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cian, or other person who shall knowingly, by means of concealment of facts or false statements, procure or assist in procuring from any life insurance organization any policy or certificate of insurance, shall be ~~punished by a fine of not to exceed one thousand dollars or by imprisonment in the county jail not to exceed one year, or by both, in the discretion of the court~~ guilty of a fraudulent practice.

Sec. 430. Section five hundred twelve point thirty-nine (512.39), Code 1975, is amended to read as follows:

512.39 VIOLATIONS. Any officer, agent, or person acting for any such association or subordinate body thereof within this state, while such association shall be so enjoined or prohibited from doing business pursuant to this chapter, shall be deemed guilty of a serious misdemeanor~~, and, on conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court~~.

Sec. 431. Section five hundred twelve point forty (512.40), Code 1975, is amended to read as follows:

512.40 ILLEGAL BUSINESS--AGENTS. Any person who shall act within this state as an officer, agent, or otherwise for any such association which has failed, neglected, or refused to comply with, or which has violated any of the provisions of this chapter, or shall have failed or neglected to procure from the commissioner of insurance proper certificate of authority to transact business as provided for by this chapter, shall be ~~subject to the penalty provided in section 512.39 for the~~ guilty of a serious misdemeanor ~~therein specified~~.

Sec. 432. Section five hundred twelve point forty-one (512.41), Code 1975, is amended to read as follows:

512.41 FALSE REPRESENTATIONS. Any officer, agent, or member of such association, who shall obtain any money or

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property belonging thereto by any false or fraudulent representation, shall be ~~fined not more than five hundred dollars and costs, and stand committed until such fine and costs are paid, or may be imprisoned in the county jail not more than six months~~ guilty of a fraudulent practice.

Sec. 433. Section five hundred twelve point eighty (512.80), Code 1975, is amended to read as follows:

512.80 VIOLATIONS. Any officer, director, or manager of any association violating or consenting to the violation of any of the provisions of sections 512.73 to 512.78 shall be ~~punished by a fine of not less than ten hundred dollars, or by imprisonment in the county jail not less than one year, or by both such fine and imprisonment in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 434. Section five hundred twelve point one hundred three (512.103), Code 1975, is amended to read as follows:

512.103 ILLEGAL BUSINESS. Any officer, manager, agent, or representative of any association who with knowledge that its certificate of authority has been suspended or revoked, or that it is doing an illegal, unauthorized, or fraudulent business solicits insurance for said association, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said association, shall be deemed guilty of a an aggravated misdemeanor ~~and for every such act, on conviction thereof, shall pay a fine of not less than one hundred nor more than ten hundred dollars, or be imprisoned in the county jail not more than one year, or be punished by both such fine and imprisonment.~~

Sec. 435. Section five hundred twelve A point eight (512A.8), Code 1975, is amended to read as follows:

512A.8 PENALTIES. Except as otherwise provided by law, it shall be unlawful for any person or corporation to operate a benevolent association in this state except as provided for in this chapter. Any person violating the provisions of this chapter shall be ~~subject to a fine not exceeding one~~

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~~thousand-dollars-or-imprisonment-in-the-county-jail-not-exceeding-thirty-days,-or-both-such-fine-and-imprisonment~~ guilty of a serious misdemeanor.

Sec. 436. Section five hundred fourteen B point twenty-nine (514B.29), Code 1975, is amended to read as follows:

514B.29 ~~PENALTIES--INDICTABLE-MISDEMEANOR~~ PENALTY. Where no other penalty is provided for in this chapter, any person who violates any of the provisions of this chapter shall be guilty of a simple misdemeanor ~~and-upon-conviction-shall-be-punished-by-a-fine-not-to-exceed-one-hundred-dollars-or-by-imprisonment-for-a-period-not-to-exceed-thirty-days-or-be-punished-by-both-such-fine-and-imprisonment.~~

Sec. 437. Section five hundred fifteen point sixty (515.60), Code 1975, is amended to read as follows:

515.60 PENALTY. Any employee, representative, or agent of an insurance company violating any of the provisions of sections 515.52 to 515.59 shall be guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-liable-to-imprisonment-for-a-term-of-not-to-exceed-thirty-days-or-for-a-fine-not-to-exceed-one-hundred-dollars-or-for-both-such-fine-and-imprisonment~~.

Sec. 438. Section five hundred fifteen point one hundred twenty (515.120), Code 1975, is amended to read as follows:

515.120 VIOLATIONS. Any officer, manager, or agent of any insurance company or association who, with knowledge that it is doing business in an unlawful manner, or is insolvent, solicits insurance with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of a ~~misdemeanor,-and-for-every-such-act,-on-conviction-thereof,-shall-be-adjudged-to-pay-a-fine-of-not-less-than-one-hundred-nor-more-than-one-thousand-dollars,-or-be-imprisoned-in-the-county-jail-not-exceeding-one-year,-or-be-punished-by-both-such-fine-and-imprisonment~~ fraudulent practice.

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Sec. 439. Section five hundred fifteen point one hundred twenty-one (515.121), Code 1975, is amended to read as follows:

515.121 OFFICERS PUNISHED. Any president, secretary, or other officer of any company organized under the laws of this state, or any officer or person doing or attempting to do business in this state for any insurance company organized either within or without this state, failing to comply with any of the requirements of this chapter, or violating any of the provisions thereof, shall be guilty of a simple misdemeanor~~, and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars, and be imprisoned in the county jail for a period not less than thirty days nor more than six months~~.

Sec. 440. Section five hundred fifteen point one hundred thirty-two (515.132), Code 1975, is amended to read as follows:

515.132 VIOLATIONS. Any such company, officer, agent, or employee violating the above provision shall be guilty of a simple misdemeanor~~, and on conviction thereof shall pay a penalty of not less than one hundred dollars nor more than five hundred dollars for each offense, to be recovered in the name of the state for the use of the permanent school fund~~.

Sec. 441. Section five hundred fifteen point one hundred forty (515.140), Code 1975, is amended to read as follows:

515.140 VIOLATIONS--STATUS OF POLICY. Any insurance company, its officers or agents, or either of them, violating any of the provisions of section 515.138, by issuing, delivering, or offering to issue or deliver any policy of fire insurance on property in this state other or different from the standard form, herein provided for, shall be guilty of a simple misdemeanor, ~~and upon complaint made by the commissioner of insurance, or by any citizen of this state, shall, upon conviction thereof, be punished by a fine of not less~~

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~~than-fifty-dollars-nor-more-than-one-hundred-dollars-for-the first-offense,-and-not-less-than-one-hundred-dollars-nor-more than-two-hundred-dollars-for-each-subsequent-offense,~~ but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the same, and such company shall, until the payment of such fine, be disqualified from doing any insurance business in this state; but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the same.

Sec. 442. Section five hundred fifteen point one hundred forty-five (515.145), Code 1975, is amended to read as follows:

515.145 VIOLATIONS. Any violation of section 515.142 shall ~~be-punished-by-a-fine-of-not-exceeding-five-hundred dollars~~ constitute a simple misdemeanor.

Sec. 443. Section five hundred eighteen A point forty-one (518A.41), Code 1975, is amended to read as follows:

518A.41 AGENTS TO BE LICENSED. No person or corporation shall solicit any application for insurance for any association in this state witout having procured from the commissioner of insurance a license authorizing him to act as agent. Violation of this provision shall ~~be-punished-by-a-fine-not exceeding-twenty-five-dollars-per-day~~ constitute a serious misdemeanor.

Sec. 444. Section five hundred twenty point fourteen (520.14), Code 1975, is amended to read as follows:

520.14 VIOLATIONS--EXCEPTIONS. Any attorney who shall exchange any contracts of insurance of the kind and character specified in this chapter, or any attorney or representative of such attorney, who shall solicit or negotiate any applications for the same without the attorney having first complied with the foregoing provisions, shall be deemed guilty of a simple misdemeanor ~~and,-upon-conviction,-shall-be-subject to-a-fine-of-not-less-than-one-hundred-dollars-nor-more-than five-hundred-dollars~~. For the purpose of organization and

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upon issuance of permit by the commisioner of insurance, powers of attorney and applications for such contracts may be solicited without compliance with the provisions of this chapter, but no attorney, agent, or other person shall make any such contracts of indemnity until all of the provisions of this chapter shall have been complied with.

Sec. 445. Section five hundred twenty-one point fifteen (521.15), Code 1975, is amended to read as follows:

521.15 VIOLATIONS. Any officer, director or stockholder of any company or companies, as defined in section 521.1, violating or consenting to the violation of any of the provisions of sections 521.2 to 521.13 shall be ~~punished by a fine of not less than one thousand dollars, or by imprisonment in the county jail for not less than one year, or by both such fine and imprisonment in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 446. Section five hundred twenty-one A point ten (521A.10), Code 1975, is amended to read as follows:

521A.10 CRIMINAL PROCEEDINGS. Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this chapter, the commissioner may cause criminal proceedings to be instituted by the district court for the county in which the principal office of the insurer is located or if such insurer has no such office in the state, then by the district court of Polk county against such insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this chapter ~~may be fined not more than one hundred dollars~~ commits a serous misdemeanor. Any individual who willfully violates this chapter ~~may be fined not more than one thousand dollars or, if such willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned not more than two years or both~~ commits a serious misdemeanor.

Sec. 447. Section five hundred twenty-two point five

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(522.5), Code 1975, is amended to read as follows:

522.5 VIOLATIONS. Any person acting as agent or otherwise representing any insurance company or association, in violation of the provisions of section 522.1, shall be ~~liable to a fine of twenty-five dollars for each day he shall so act~~ guilty of a serious misdemeanor.

Sec. 448. Section five hundred twenty-three point two (523.2), Code 1975, is amended to read as follows:

523.2 CONDITIONS. The commissioner of insurance shall promulgate such rules with respect to the solicitation and voting of proxies as will in his opinion best protect the interests of all stockholders or policyholders from whom they are solicited. Any violation of any rule promulgated hereunder shall be deemed a simple misdemeanor ~~and punishable accordingly~~.

Sec. 449. Section five hundred twenty-three A point four (523A.4), Code 1975, is amended to read as follows:

523A.4 PENALTY. Any person, firm or corporation, or any agent or representative thereof, who shall violate any of the provisions of sections 523A.1 and 523A.2, or who shall aid and abet in such violation, shall be deemed guilty of a an aggravated misdemeanor.

Sec. 450. Section five hundred twenty-four point one thousand six hundred one (524.1601), subsection one (1), Code 1975, is amended to read as follows:

1. A director, officer or employee of a state bank who willfully violates any of the provisions of subsection 4 of section 524.612, section 524.613, subsection 2 of section 524.706, insofar as such subsection incorporates subsection 4 of section 524.612, or section 524.710, shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both,~~ plus, in the following circumstances, an additional fine or fines equal to:

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Sec. 451. Section five hundred twenty-four point one thousand six hundred one (524.1601), subsections two (2), three (3), and four (4), Code 1975, are amended to read as follows:

2. A director or officer who willfully makes or receives a loan in violation of subsection 1 of section 524.612, or subsection 1 of section 524.706, shall be guilty of a serious misdemeanor and~~,-upon-conviction-thereof,~~ shall be subject to ~~imprisonment-in-the-county-jail-for-a-period-not-exceeding one-year-or-a-fine-not-exceeding-one-thousand-dollars,-or both,-plus~~ an additional fine equal to that amount of the loan in excess of the limitation imposed by such subsections, and shall be forever disqualified from acting as a director or officer of any state bank. For the purpose of this subsection, amounts which are treated as obligations of an officer or director pursuant to subsection 5 of section 524.612, shall be considered in determining whether the loan or extension of credit is in violation of subsection 1 of section 524.612 and subsection 1 of section 524.706.

3. A director, officer or employee of a state bank who willfully makes or receives a loan or extension of credit of funds held by the state bank as fiduciary, in violation of subsection 4 of section 524.1002, shall be guilty of a serious misdemeanor and~~,-upon-conviction-thereof~~ shall be subject to ~~imprisonment-in-the-county-jail-for-a-period-not exceeding-one-year-or-a-fine-not-exceeding-one-thousand-dollars,-or-both,-plus~~ a further fine equal to the amount of the loan or extension of credit made in violation of subsection 4 of section 524.1002, and shall be forever disqualified from acting as a director, officer or employee of any state bank.

4. A director, officer or employee of a state bank who willfully violates, or participates in the violation of, section 524.814, or section 524.819, shall be guilty of a serious misdemeanor ~~and,-upon-conviction-thereof,-shall-be~~

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~~subject-to-imprisonment-in-the-county-jail-for-a-period-not exceeding-one-year-or-a-fine-not-exceeding-one-thousand dollars,-or-both.~~

Sec. 452. Section five hundred twenty-four point one thousand six hundred three (524.1603), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who willfully engages in the business of receiving money for deposit or transacts the business generally done by banks, or who willfully establishes a place of business for such purposes, in violation of subsection 1 of section 524.107, shall be guilty of a serious misdemeanor ~~and,-upon-conviction-thereof,-shall-be-subject-to:~~

~~a.--In-the-case-of-an-individual,-imprisonment-in-the county-jail-for-a-period-not-exceeding-one-year,-or-a-fine not-exceeding-one-thousand-dollars,-or-both.~~

~~b.--In-the-case-of-any-other-person,-to-a-fine-not-exceeding-five-thousand-dollars.~~

Sec. 453. Section five hundred twenty-four point one thousand six hundred four (524.1604), subsections one (1) and three (3), Code 1975, are amended to read as follows:

1. Any person whose duty it is to make statements or file reports as may be required by this chapter, and who willfully neglects or refuses to perform such duty, shall be guilty of a simple misdemeanor ~~and,-upon-conviction-thereof,-shall be-subject-to-imprisonment-in-the-county-jail-for-a-period not-exceeding-one-year-or-a-fine-not-exceeding-one-thousand dollars.~~

3. Any officer or employee who violates section 524.709 shall be guilty of a simple misdemeanor ~~and-shall,-upon conviction-thereof,-be-subject-to-imprisonment-in-the-county jail-for-a-period-not-to-exceed-one-year-or-a-fine-not-exceeding-one-thousand-dollars,-or-both.~~

Sec. 454. Section five hundred twenty-four point one thousand six hundred five (524.1605), Code 1975, is amended to read as follows:

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524.1605 FALSE STATEMENTS, REPORTS AND FRAUDULENT ACTS.

1. Any director, officer or employee of a state bank who shall knowingly subscribe or make any false statements or false entries in the books, records, or memoranda of a state bank, or knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine its condition, or shall knowingly subscribe or make false reports, or shall knowingly divert the funds of the state bank to other purposes than those authorized by law, or who commits any other act with intent to defraud the state bank or any other person shall~~, upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding five years or a fine not exceeding ten thousand dollars, or both~~ be guilty of a class "C" felony, and shall be forever disqualified from acting as a director, officer or employee of any state bank.

2. Any officer or employee of a state bank who, with intent to defraud the state bank or any other person, certifies any check when there are not sufficient funds on hand available to the credit of the drawer of said check to pay the same, or who issues any certificate of deposit when funds have not been deposited equal to the amount of such certificate, or who, with intent to defraud the state bank or any other person, draws any draft or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation or instrument, or participates in, or receives directly or indirectly any money, property or other benefit from any transaction, loan, contract or other act of a state bank shall~~, upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding five years, or a fine not exceeding ten thousand dollars, or both, or be subject to imprisonment in the county jail for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both~~ be guilty of a class "C" felony, and shall, in either event be forever disqualified from act-

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ing as an officer or employee of any state bank.

Sec. 455. Section five hundred twenty-four point one thousand six hundred six (524.1606), Code 1975, is amended to read as follows:

524.1606 FRAUDULENT ADVERTISING OR NOTICE. A state bank shall not publish, disseminate or distribute any advertising or notice containing any false, misleading or deceptive statements concerning the rates, terms or conditions on which loans are made or deposits are received, any charge which the state bank is authorized to impose pursuant to this chapter, or the financial condition of the state bank. Any officer or employee of a state bank who willfully violates the provisions of this section shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both~~ fraudulent practice.

Sec. 456. Section five hundred twenty-four point one thousand six hundred seven (524.1607), Code 1975, is amended to read as follows:

524.1607 FALSE STATEMENT FOR CREDIT. Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person, or any other person in which such person is interested or for whom such person is acting, with the intent that such statement shall be relied upon by a bank for the purpose of procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dol-~~

~~lars, or both~~ fraudulent practice.

Sec. 457. Section five hundred twenty-four point one thousand six hundred eight (524.1608), Code 1975, is amended to read as follows:

524.1608 PENALTY FOR ACCEPTING DEPOSITS WHILE INSOLVENT. If a state bank shall accept any deposit or renew any certificate of deposit in violation of subsection 5 of section 524.805, any officer or employee knowing of such insolvency who willfully receives, accepts or renews or is accessory to or otherwise knowingly permits such acceptance shall, ~~upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding ten years or a fine not exceeding ten thousand dollars, or both, or subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both,~~ be guilty of a fraudulent practice and shall, in either event be forever disqualified from acting as an officer or employee of any state bank.

Sec. 458. Section five hundred twenty-four point one thousand six hundred nine (524.1609), Code 1975, is amended to read as follows:

524.1609 FALSE STATEMENTS CONCERNING STATE BANKS. Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false statement concerning any state bank which imputes, or tends to impute, insolvency, unsound financial condition or financial embarrassment, or which may tend to cause or provoke, or aid in causing or provoking, a general withdrawal of deposits from such state bank, or which may otherwise injure or tend to injure the business or good will of such state bank, shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~ simple misdemeanor.

Sec. 459. Section five hundred twenty-four point one

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thousand six hundred ten (524.1610), Code 1975, is amended to read as follows:

524.1610 VIOLATION OF PROHIBITION AGAINST RECEIVING A COMMISSION FOR ORGANIZING A STATE BANK. Any person violating the provisions of section 524.311 shall be guilty of a simple misdemeanor ~~and shall upon conviction thereof be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both, plus an additional fine equal to twice the amount of such commission or bonus.~~

Sec. 460. Section five hundred twenty-four point one thousand six hundred eleven (524.1611), Code 1975, is amended to read as follows:

524.1611 OFFENSES INVOLVING EMPLOYEES OF DEPARTMENT OF BANKING.

1. Any person violating the provisions of subsection 1 of section 524.211 shall be guilty of a ~~misdemeanor and shall, upon conviction thereof, be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~ fraudulent practice, and shall be subject to a further fine of a sum equal to the amount of the value of the property given or received or the money so loaned or borrowed. The deputy superintendent, an assistant or examiner convicted of a violation of such subsection shall be immediately discharged from employment and shall be forever disqualified from holding any position in the department of banking.

2. Any examiner violating the provision of section 524.212 shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~. Any examiner convicted of a violation of section 524.212 shall be immediately discharged from employment and shall be forever disqualified from holding any position in the department of banking.

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Sec. 461. Section five hundred twenty-four point one thousand eight hundred seven (524.1807), Code 1975, is amended to read as follows:

524.1807 PENALTIES. Any bank holding company which willfully violates any provision of sections 524.1801 to 524.1806 shall, upon conviction, be fined not less than one hundred dollars nor more than one thousand dollars for each day during which the violation continues. Any individual who willfully participates in a violation of any provisions of sections 524.1801 to 524.1806 shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~.

Sec. 462. Section five hundred thirty-three point three (533.3), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person, firm, corporation, copartnership, or association, upon conviction of the violation of the provisions of this section shall be ~~fined not more than five hundred dollars or imprisoned not more than one year or both~~ guilty of a serious misdemeanor; and may be enjoined from such continued use of said words, advertising or other representation.

Sec. 463. Section five hundred thirty-three point thirty-one (533.31), Code 1975, is amended to read as follows:

533.31 PENALTY FOR FALSIFICATION. Any director, officer, agent, employee, or clerk of any credit union who shall knowingly subscribe or make any false statements or false entries in the books thereof, or knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine its condition, or shall knowingly subscribe and make false reports, or shall knowingly divert the funds of the credit union to other objects than those authorized by law, shall be ~~punished by imprisonment in the penitentiary not more than five years, or in the county jail not more than~~

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~~one-year,-or-by-fine-of-not-more-than-one-thousand-dollars or-by-both-such-fine-and-imprisonment~~ guilty of a fraudulent practice and be forever after barred from holding any office created by this chapter.

Sec. 464. Section five hundred thirty-three A point thirteen (533A.13), Code 1975, is amended to read as follows:

533A.13 LICENSE MANDATORY TO BUSINESS. It shall be unlawful for an individual, partnership, unincorporated association, agency or corporation to engage in the business of debt management without first obtaining a license as required by this chapter. Any individual, partnership, unincorporated association, agency, corporation or any other group of individuals, however organized, or any owner, partner, member, officer, director, employee, agent or representative thereof who shall willfully or knowingly engage in the business of debt management without the license required by this chapter, shall be guilty of a serious misdemeanor ~~and-upon-conviction-thereof-shall-be-fined-not-more-than-one-thousand-dollars for-each-violation-or-imprisoned-in-the-county-jail-for-not more-than-six-months,-or-by-both-such-fine-and-imprisonment~~.

Sec. 465. Section five hundred thirty-three B point five (533B.5), Code 1975, is amended to read as follows:

533B.5 PENALTY. Any person violating any provision of this chapter shall be guilty of a serious misdemeanor ~~and shall-be-fined-not-more-than-one-thousand-dollars~~. Each transaction in violation of this chapter and each day that a violation continues shall be a separate offense.

Sec. 466. Section five hundred thirty-four point thirteen (534.13), Code 1975, is amended to read as follows:

534.13 DEFAMATION OF INSTITUTIONS PROHIBITED--MALICIOUS CIRCULATION OF REPORTS. Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false report concerning any building and loan or savings and loan association which imputes or tends to impute, insolvency or unsound financial condition or financial

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embarrassment, or which may tend to cause or provoke or aid in causing or provoking a general withdrawal of funds from such association, or which may otherwise injure or tend to injure the business or good will of such building and loan or savings and loan association, shall be guilty of a ~~felony and shall be fined not more than five thousand dollars or be imprisoned for not more than five years in the penitentiary or be punished by both such fine and imprisonment~~ serious misdemeanor.

Sec. 467. Section five hundred thirty-four point fifty-seven (534.57), Code 1975, is amended to read as follows:

534.57 SALE OF STOCK IF UNAUTHORIZED FOREIGN COMPANY. It shall be unlawful for an agent, solicitor or other person to sell stock or solicit share accounts or solicit persons to subscribe for same in any association named in section 534.50 which has not been authorized to do business in this state, and any person convicted of so doing shall be ~~punished by a fine of not less than fifty nor more than two hundred dollars and shall be committed to the county jail until the fine and costs are paid~~ guilty of a serious misdemeanor.

Sec. 468. Section five hundred thirty-four point sixty-four (534.64), Code 1975, is amended to read as follows:

534.64 CRIMINAL OFFENSES. If any officer, director, or agent of any building and loan or savings and loan association shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, he shall be guilty of perjury. If any director of any such association shall vote to declare a dividend greater than has been earned; or if any officer or director or any agent or employee of any such association shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person

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in the name of such association without being authorized to do so by the board of directors in pursuance of its lawful power, he shall be guilty of a fraudulent practice; or if any such officer, director, agent, or employee shall embezzle or convert to his own use, or shall use or pledge for his own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, he shall be guilty of theft; or if he shall knowingly do or attempt to do business for such association that has not procured and does not hold the certificate of authority therefor as in this chapter provided, he shall be guilty of a serious misdemeanor; or if he shall knowingly make or cause to be made any false entries in the books of the association, or shall, with the intent to deceive any person making an examination in this chapter required to be made, exhibit to the person making the examination any false entry, paper, or statement, he shall be guilty of a fraudulent practice; or if he shall knowingly do or solicit business for any building and loan or savings and loan association which has not procured the required certificate therefor, he shall be ~~fined in any sum not exceeding ten thousand dollars, or imprisoned in the penitentiary not exceeding ten years, or punished by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 469. Section five hundred thirty-four point sixty-six (534.66), subsection twelve (12), Code 1975, is amended to read as follows:

12. CRIMINAL OFFENSES. If any officer or agent of any such building and loan association, or any person conducting the business thereof, shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, he shall be guilty of perjury and punished accordingly. And if any officer, agent or employee of any such association, or any person transacting the business thereof, shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay

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of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person in the name of such association without being authorized so to do, he shall be guilty of a fraudulent practice; or if any such officer, agent, or employee of such association, or any person transacting the business thereof, shall embezzle, convert to his own use, or shall use or pledge for his own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, ~~or~~ he shall be guilty of theft; or if he shall knowingly solicit, transact, or attempt to transact any business for any such association which has not procured and does not hold the certificate of authority from the auditor of state to transact business in this state as provided herein, he shall be guilty of a serious misdemeanor; or if he shall knowingly make, or cause to be made, any false entries in the books of the association, or shall, with intent to deceive any person making an examination of such association, as herein provided, exhibit to the person making the examination any false entry, paper, or statement, he shall be ~~fined in a sum not exceeding ten thousand dollars or imprisoned in the penitentiary not exceeding ten years or punished by both such fine and imprisonment~~ guilty of a fraudulent practice.

Sec. 470. Section five hundred thirty-five point six (535.6), Code 1975, is amended to read as follows:

535.6 INTEREST IN EXCESS OF TWO PERCENT PER MONTH. Every person or persons, company, corporation, or firm, and every agent of any person, persons, company, corporation, or firm, who shall take or receive, or agree to take or receive, directly or indirectly, by means of commissions or brokerage charges, or otherwise, for the forbearance or use of money in the sum or amount of more than five hundred dollars a rate greater than two percent per month, shall be deemed guilty

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of a serious misdemeanor~~,-and,-on-conviction-thereof,-shall be-punished-by-a-fine-of-not-less-than-twenty-five-dollars, nor-more-than-five-hundred-dollars,-or-by-imprisonment-in the-county-jail-for-a-period-of-not-less-than-thirty-days nor-more-than-ninety-days~~. Nothing herein contained shall be construed as authorizing a higher rate of interest than is now provided by law. Provided, however, this section shall not apply to lawful loans under chapter 536.

Sec. 471. Section five hundred thirty-six point nineteen (536.19), Code 1975, is amended to read as follows:

536.19 VIOLATIONS. Any person, copartnership, association, or corporation and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any of the provisions of sections 536.1, 536.12, 536.13 or 536.14, which are not also violations of article 5, part 3, of the Iowa consumer credit code, shall be guilty of a serious misdemeanor~~,-and-upon conviction-thereof,-shall-be-punishable-by-a-fine-of-not-more than-five-hundred-dollars-or-by-imprisonment-of-not-more-than six-months,-or-by-both-such-fine-and-imprisonment,-in-the discretion-of-the-court~~. Violations of the Iowa consumer credit code shall be subject to the penalties provided therein.

Sec. 472. Section five hundred thirty-six A point twenty-seven (536A.27), Code 1975, is amended to read as follows:

536A.27 PENALTY. If any officer, director or agent of any corporation engaged in the business of operating an industrial loan company shall violate any of the provisions of this chapter which are not also violations of the Iowa consumer credit code; or if any person individually or as a partner, or officer, director or agent of any corporation shall engage in the business of operating an industrial loan company without obtaining the license required by section 536A.3, when that person is not required by section 537.2301 to have a license, he shall be guilty of a serious misdemeanor ~~and-upon-conviction-thereof-shall-be-punishable-by-a-fine~~

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~~of not more than five hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.~~ Violation of the Iowa consumer credit code shall be subject to the penalties provided therein.

Sec. 473. Section five hundred thirty-seven point five thousand three hundred one (537.5301), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. A person who willfully and knowingly makes charges in excess of those permitted by the provisions of article 2, part 4, applying to supervised loans, is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding one thousand dollars, or to imprisonment not exceeding one year, or both.~~

2. A person who, in violation of the provisions of this Act applying to authority to make supervised loans under section 537.2301, willfully and knowingly engages without a license in th business of making supervised loans, or of taking assignments of and undertaking direct collection of payments from and enforcement of rights against consumers arising from supervised loans, is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding one thousand dollars, or to imprisonment not exceeding one year, or both.~~

Sec. 474. Section five hundred thirty-seven point five thousand three hundred two (537.5302), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

A person is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding five thousand dollars, or to imprisonment not exceeding one year, or both,~~ if he willfully and knowingly does any of the following:

Sec. 475. Section five hundred forty-two point eleven (542.11), Code 1975, is amended to read as follows:

542.11 PENALTIES--MISDEMEANOR. Any person who engages in business as a grain dealer without obtaining a license or any person in violation of any other provision of this

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chapter, or any grain dealer who refuses to permit inspection of his premises, books, accounts or records as provided in this chapter, shall be guilty of a simple misdemeanor ~~and, upon conviction, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment for each offense.~~ Each day that any violation continues shall constitute a separate offense. Any person violating the provisions of this chapter may be restrained by an injunction.

Sec. 476. Section five hundred forty-three point thirty-six (543.36), Code 1975, is amended to read as follows:

543.36 PENALTIES--MISDEMEANOR. Every person who violates or fails to comply with any of the provisions of this chapter or to comply with any lawfully authorized order, direction, demand, or rule or regulation of the commission shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days or by both such fine and imprisonment.~~

Sec. 477. Section five hundred forty-six A point nine (546A.9), Code 1975, is amended to read as follows:

546A.9 PENALTIES. Any person who shall offer new merchandise for sale at public auction without first securing a license as herein provided, or who shall offer for sale new merchandise different from that shown by, or in excess of the amount and value of, the inventories filed with the application for license, shall be guilty of a serious misdemeanor ~~and may be punished by a fine not to exceed three hundred dollars or by imprisonment in the county jail not to exceed ninety days.~~

Sec. 478. Section five hundred forty-seven point four (547.4), Code 1975, is amended to read as follows:

547.4 PENALTY. Any person violating the provisions of this chapter shall, ~~upon conviction,~~ be ~~punishable by a fine~~

~~of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a term not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 479. Section five hundred fifty-one point four (551.4), Code 1975, is amended to read as follows:

551.4 PENALTY. Any person, firm, company, association, or corporation violating any of the provisions of sections 551.1 and 551.2, and any officer, agent, or receiver of any firm, company, association, or corporation, or any member of the same, or any individual, ~~found guilty of a violation thereof,~~ violating any of such provisions shall be ~~fined not less than five hundred dollars nor more than five thousand dollars, or be imprisoned in the county jail not to exceed one year, or suffer both penalties~~ guilty of a serious misdemeanor.

Sec. 480. Section five hundred fifty-one A point three (551A.3), subsection one (1), Code 1975, is amended to read as follows:

1. It shall be unlawful for any wholesaler or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler or retailer, as the case may be, as defined in this chapter. Any wholesaler or retailer who violates the provisions of this section shall be guilty of a simple misdemeanor ~~and be punishable by fine of not less than one hundred dollars, nor more than five hundred dollars~~.

Sec. 481. Section five hundred fifty-two point two (552.2), Code 1975, is amended to read as follows:

552.2 UNLAWFUL ACTS. It shall be a public offense for any corporation, association, copartnership, person or persons, or agent to conduct, keep, maintain or cause to be conducted, kept or maintained, within this state, any bucket shop. Any corporation, person or persons, or agent whether acting individually or as a member, or as an officer, agent, or employee of any corporation, association, or copartnership,

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who shall conduct, keep, maintain, or assist in the conducting, keeping or maintaining of any bucket shop within this state shall~~,-upon-conviction-thereof,~~ be ~~fined-in-a-sum-not-to exceed-one-thousand-dollars-or-be-imprisoned-in-the penitentiary-not-exceeding-two-years~~ guilty of a fraudulent practice.

Sec. 482. Section five hundred fifty-three point three (553.3), Code 1975, is amended to read as follows:

553.3 PENALTY. Any corporation, company, firm, or association violating any of the provisions of sections 553.1 and 553.2 shall be ~~fined-not-less-than-five-hundred-nor-more than-five-thousand-dollas~~ guilty of an aggravated misdemeanor, and any president, manager, director, officer, agent, or receiver of any corporation, company, firm, or association, or any member of any corporation, company, firm, or association, or any individual, found guilty of a violation thereof, shall be ~~fined-not-less-than-five-hundred-nor-more-than-five thousand-dollars,-or-be-imprisoned-in-the-county-jail-not to-exceed-one-year,-or-both~~ punished accordingly.

Sec. 483. Section five hundred fifty-three point thirteen (553.13), Code 1975, is amended to read as follows:

553.13 VIOLATION--PENALTY. Any person, partnership, company, association, or corporation subject to the provisions of sections 553.10 to 553.12, inclusive, or any person, trust, combination, pool, or association, or any director, officer, lessee, receiver, trustee, employee, clerk, agent, or any person acting for or employed by them, who shall violate any of the provisions of section 553.10, or who shall aid and abet in such violation, shall be deemed guilty of a an aggravated misdemeanor~~,-and-shall-upon-conviction-thereof-be-fined-any-sum-not-less-than-five-hundred-dollars-and not-exceeding-two-thousand-dollars-or-imprisoned-in-the-county jail-for-a-period-not-exceeding-six-months,-or-both,-at-the discretion-of-the-court~~.

Sec. 484. Section five hundred fifty-three point seven-

teen (553.17), Code 1975, is amended to read as follows:

553.17 VIOLATION. Any person who engages in a gift enterprise such as is defined in section 553.16 or who advertises the same in any manner or who in furtherance of such scheme, as an inducement to purchasers, issues in connection with the sale of any merchandise or other property any such ticket or stamp purporting to be redeemable in some indefinite article not described thereon, only when presented with a collection of other stamps or tickets of like kind by some other party to such scheme, and which unless presented in the manner aforesaid is not redeemable at all, shall each and all be guilty of a simple misdemeanor.

Sec. 485. Section five hundred fifty-three point twenty-one (553.21), Code 1975, is amended to read as follows:

553.21 VIOLATION--PENALTY. Any person, partnership, company, association, or corporation subject to the provisions of sections 553.19 and 553.20, or any person, trust, combination, pool, or association, or any director, officer, lessee, receiver, trustee, employee, clerk, agent, or any person acting for or employed by them or either of them, who shall violate any of the provisions of section 553.19, or who shall aid and abet in such violation, shall be deemed guilty of a an aggravated misdemeanor~~, and shall upon conviction thereof be fined any sum not less than five hundred dollars and not exceeding two thousand dollars, or imprisoned in the county jail for a period not exceeding six months, or both, at the discretion of the court~~.

Sec. 486. Section five hundred fifty-six point twenty-five (556.25), Code 1975, is amended to read as follows:

556.25 PENALTIES.

1. Any person who willfully fails to render any report or perform other duties required under this chapter, shall be ~~punished by a fine of twenty-five dollars for each day such report is withheld, but not more than five hundred dol-~~

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~~lars~~ guilty of a simple misdemeanor.

2. Any person who willfully refuses to pay or deliver abandoned property to the treasurer of state as required under this chapter shall be ~~punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or imprisonment for not more than six months, or both, in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 487. Section five hundred fifty-eight point forty (558.40), Code 1975, is amended to read as follows:

558.40 LIABILITY OF OFFICER. Any officer, who knowingly misstates a material fact in either of the certificates mentioned in this chapter, shall be liable for all damages caused thereby, and shall be guilty of a serious misdemeanor~~, and fined any sum not exceeding the value of the property conveyed or otherwise affected by the instrument on which such certificate is endorsed~~.

Sec. 488. Section five hundred sixty-six A point nine (566A.9), Code 1975, is amended to read as follows:

566A.9 PENALTY. Any person, firm or corporation violating any of the provisions of this chapter, shall~~, upon conviction,~~ be ~~punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 489. Section five hundred seventy point nine (570.9), Code 1975, is amended to read as follows:

570.9 SALE OF CROPS HELD BY LANDLORD'S LIEN. If any tenant of farm lands, with intent to defraud, shall sell, conceal, or in any manner dispose of any of the grain, or other annual products thereof upon which there is a landlord's lien for unpaid rent, without the written consent of the landlord, he shall be guilty of ~~larceny and punished accordingly~~ theft.

Sec. 490. Section five hundred eighty point three (580.3), Code 1975, is amended to read as follows:

580.3 SALE OR REMOVAL PROHIBITED--PENALTY. It shall be unlawful to sell, exchange, or remove permanently from the county any animal subject to the lien herein provided for,

without the written consent of the holder of such lien, and any person violating this provision, shall, ~~on conviction be punished by a fine of not less than twenty-five dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 491. Section five hundred ninety-five point eight (595.8), Code 1975, is amended to read as follows:

595.8 CONSENT OF PARENT. If either applicant for a license is a minor, a certificate in writing of the parents or guardian, as the case may be, of consent, as provided in section 595.3, must be filed in the office of the clerk, and be acknowledged by them or proven to be genuine, and a memorandum thereof entered in the license book. The false making of such certificate shall ~~be punishable as forgery~~ constitute a serious misdemeanor.

Sec. 492. Section five hundred ninety-five point nine (595.9), Code 1975, is amended to read as follows:

595.9 VIOLATIONS. If the clerk issues a license in violation of the provisions of section 595.8, or if a marriage is solemnized without its being procured, the clerk so issuing the same, and the parties married, and all persons aiding them, are guilty of a simple misdemeanor.

Sec. 493. Section five hundred ninety-six point six (596.6), Code 1975, is amended to read as follows:

596.6 PENALTY. Any clerk of the district court who shall unlawfully issue a license to marry to any person who fails to present and file the certificate as required in this chapter, and any person or persons who shall disclose or falsify any matter relating or pertaining to the examination of or certificate about any applicant for license to marry or clinical and laboratory tests taken by any party to a proposed marriage, except as may be required by law, and any person who shall obtain a license to marry contrary to the provisions of this chapter, shall be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars or by imprisonment~~

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~~in-the-county-jail-not-to-exceed-thirty-days.~~

Sec. 494. Section five hundred ninety-eight point twenty-three (598.23), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any employer who dismisses an employee due to the entry of an assignment order commits a ~~public-offense-and-upon-conviction-shall-be-fined-not-more-than-one-hundred-dollars~~ simple misdemeanor.

Sec. 495. Section five hundred ninety-eight point twenty-

SENATE FILE 85

H-5347

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 414, by striking all of lines 29 though 35.
2. Page 415, by striking all of lines 1 through four.
3. Page 422, line 33, by inserting after "(552.3)," the words "five hundred ninety-eight point twenty-seven (598.27),".

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FEBRUARY 26, 1976

ing, or the substance thereof, to be made available to any person other than a party or attorney to the action. Nothing in this section shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure. Violation of the provisions of this section shall be a ~~public-offense,-punishable-by-a-fine-of-not-more-than-one-hundred-dollars,-or-imprisonment-in-the-county-jail-not-more-than-thirty-days,-or-by-both-such-fine-and-imprisonment~~ serious misdemeanor.

Sec. 496. Section five hundred ninety-eight point twenty-seven (598.27), Code 1975, is amended to read as follows:

598.27 REMARRIAGE. In every case in which a marriage dissolution is decreed, neither party shall marry again within a year from the date of the filing of said decree unless permission to do so is granted by the court. Nothing herein contained shall prevent the persons whose marriage has been

dissolved from remarrying each other. Any person marrying contrary to the provisions of this section shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished accordingly~~.

Sec. 497. Section six hundred point ten (600.10), Code 1975, is amended to read as follows:

600.10 DISCLOSURE--PENAL PROVISIONS. Every person, excepting adopting parents or adopted child, who discloses any information contained in any adoption papers or proceedings except as may be authorized by order of court and every person who violates any of the provisions of this chapter or who intentionally shall make any false statements with reference to the matters contained herein, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished accordingly~~.

Sec. 498. Section six hundred one D point seven (601D.7), Code 1975, is amended to read as follows:

601D.7 PENALTY FOR DENYING RIGHTS. Any person, firm, or corporation, or the agent of any person, firm, or corporation, who denies or interferes with the rights of any person under this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than two hundred dollars~~.

Sec. 499. Section six hundred one E point five (601E.5), Code 1975, is amended to read as follows:

601E.5 PENALTY. Any person who is not qualified as a handicapped or paraplegic person and uses a distress flag as provided in this chapter or for any other purpose is guilty of a simple misdemeanor ~~and punishable by a fine of not more than one hundred dollars or thirty days in jail~~.

Sec. 500. Section six hundred one G point twenty-two (601G.22), Code 1975, is amended to read as follows:

601G.22 PENALTIES. A person who willfully obstructs or hinders the lawful actions of the citizens' aide or his staff, or who willfully misleads or attempts to mislead the citizens'

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aide in his inquires, shall be ~~subject to a fine of not more than one thousand dollars~~ guilty of a simple misdemeanor.

Sec. 501. Section six hundred two point sixty (602.60), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Judicial magistrates shall have jurisdiction of ~~nonindictable~~ simple misdemeanors, including traffic and ordinance violations, preliminary hearings, search warrant proceedings, and small claims. They shall also have jurisdiction to exercise the powers specified in sections ~~748.2,~~ 644.2 and 644.12 and the power to hear complaints, or preliminary informations, issue warrants, order arrests, make commitments and take bail. They shall have power to act any place within the district as directed, and venue shall be the same as in other district court proceedings. In addition, judicial magistrates appointed pursuant to section 602.51 shall have jurisdiction of indictable misdemeanors, the jurisdiction provided for in section 231.3 when designated a judge of the juvenile court, and jurisdiction in civil actions for money judgments where the amount in controversy does not exceed three thousand dollars and while exercising that jurisdiction, judicial magistrates shall employ district judges' practice and procedure.

Sec. 502. Section six hundred two point sixty-two (602.62), Code 1975, is amended to read as follows:

602.62 PROCEDURE. The criminal procedure before judicial magistrates shall be as provided in ~~chapters 751, 754 to 763, 765, 766, and 768~~ chapter one (1), divisions four (IV), six (VI), eight (VIII), eleven (XI) of this Act, rules two (2) and thirty-three (33) through forty-seven (47), rules of criminal procedure, and chapter seven hundred fifty-nine (759) of the Code. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 503. Section six hundred seven point four (607.4), Code 1975, is amended to read as follows:

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607.4 FALSE EXCUSE--PROHIBITED REQUESTS. Any person who knowingly makes any false affidavit, statement, or claim, for the purpose of relieving himself or another from serving as a juror, or any person who requests the judges of election to return his name as such juror, shall be ~~punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not more than thirty days, or the court may punish such person as for contempt~~ guilty of a fraudulent practice.

Sec. 504. Section six hundred ten point twenty-one (610.21), Code 1975, is amended to read as follows:

610.21 UNLAWFUL RETENTION OF MONEY. An attorney who receives the money or property of his client in the course of his professional business, and refuses to pay or deliver it in a reasonable time, after demand, is guilty of a ~~misdemeanor~~ theft and punished accordingly.

Sec. 505. Section six hundred ten point forty-nine (610.49), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 506. Section six hundred seventeen point two (617.2), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

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 ~~may be fined by the court not exceeding ten dollars~~ shall be guilty of a simple misdemeanor, and he 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.

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Sec. 507. Section six hundred eighteen point two (618.2), Code 1975, is amended to read as follows:

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 him by law of any notice, report of proceedings or other matter whatsoever, shall be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days~~.

Sec. 508. Section six hundred twenty-two A point three (622A.3), subsection two (2), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

In civil cases, every court shall tax the cost of an interpreter the same as other court costs. In criminal cases, where the defendant is indigent, the interpreter shall be considered as a defendant's witness under ~~chapter 784~~ rule fourteen (14), rules of criminal procedure for the purpose of receiving fees, except that subpoenas shall not be required. If the proceeding is before an administrative agency, that agency shall provide such interpreter but may require that a party to the proceeding pay the expense thereof.

Sec. 509. Section six hundred twenty-four point fourteen (624.14), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

624.14 JUROR AS WITNESS--GROUNDS TO SET ASIDE VERDICT. If a juror has personal knowledge respecting a fact in controversy in a cause, he must declare the same in open court during the trial, and if, during the retirement of the jury, a juror declares any fact which could be evidence in the cause, as of his own knowledge, the jury must return into court, and the juror must be sworn as a witness and examined in the presence of the parties, if his evidence be admissible; and in support of a motion to set aside a verdict, proof of such declaration may be made by any juror.

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Sec. 510. Section six hundred twenty-seven point seventeen (627.17), Code 1975, is amended to read as follows:

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 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~~, and punished by a fine of not less than ten nor more than fifty dollars~~.

Sec. 511. Section six hundred fifty-seven point three (657.3), Code 1975, is amended to read as follows:

657.3 PENALTY--ABATEMENT. Whoever is convicted of erecting, causing, or continuing a public or common nuisance as provided in this chapter, or at common law when the same has not been modified or repealed by statute, where no other punishment therefor is specially provided, shall be ~~fined not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding one year,~~ guilty of an aggravated misdemeanor and the court, ~~with or without such fine,~~ may order such nuisance abated, and issue a warrant as hereinafter provided.

Sec. 512. Section six hundred sixty point eleven (660.11), Code 1975, is amended to read as follows:

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 ~~fined in any sum not exceeding five thousand dollars, and imprisoned~~

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~~in-the-county-jail-until-he-complies-therewith~~ shall be punished accordingly, and shall be further liable for the damages resulting to any person on account of his disobedience.

Sec. 513. Section six hundred sixty-three point twenty (663.20), Code 1975, is amended to read as follows:

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 him, he shall~~,-on-conviction,-be-imprisoned-in the-penitentiary-or-county-jail-not-more-than-one-year,-and fined-not-exceeding-one-thousand-dollars~~ be guilty of a serious misdemeanor, and any person knowingly aiding or abetting in any such act shall be subject to like punishment.

Sec. 514. Section six hundred sixty-six point six (666.6), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Such report must be full, true, and complete with reference to the matters therein contained, and of all things required by this section to be reported, and be under oath, and any officer failing to make such report shall be guilty of a simple misdemeanor.

Sec. 515. Section seven hundred thirteen B point six (713B.6), Code 1975, is amended to read as follows:

713B.6 PENALTY. Any seller who violates the provisions of this chapter shall be guilty of a simple misdemeanor.

Sec. 516. Section seven hundred forty point eighteen (740.18), Code 1975, is amended to read as follows:

740.18 PENALTY. Any person who violates any provision of sections 740.13 to 740.17, inclusive, shall be guilty of a serious misdemeanor ~~and-shall-be-punished-accordingly~~.

Sec. 517. Section seven hundred forty-nine B point seven (749B.7), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. Any person who willfully requests, obtains, or seeks to obtain criminal history data under false pretenses, or

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who willfully communicates or seeks to communicate criminal history data to any agency or person except in accordance with this chapter, or any person connected with any 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 ~~punished by a fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than two years, or by both fine and imprisonment~~ guilty of an aggravated misdemeanor. Any person w b knowingly, but without criminal purposes, communicates or seeks to communicate criminal history data except in accordance with this chapter shall ~~for each such offense be fined not more than one hundred dollars or be imprisoned not more than ten days~~ be guilty of a simple 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 ~~punished by a fine of not more than five thousand dollars or by imprisonment in the state penitentiary for not more than three years, or by both fine and imprisonment~~ 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 ~~fined not more than five hundred dollars or be imprisoned not more than six months, or both~~ guilty of a serious misdemeanor.

Sec. 518. Sections one hundred point thirty-seven (100.37), one hundred sixty point fouteen (160.14), two hundred twenty-three point three (223.3), two hundred forty-six point nine (246.9), two hundred forty-six point ten (246.10), two hundred forty-six point twenty-three (246.23), two hundred forty-seven point one (247.1), two hundred forty-seven point two (247.2),

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two hundred forty-seven point three (247.3), two hundred forty-seven point four (247.4), two hundred forty-seven point five (247.5), two hundred forty-seven point six (247.6), two hundred forty-seven point seven (247.7), two hundred forty-seven point eight (247.8), two hundred forty-seven point nine (247.9), two hundred forty-seven point ten (247.10), two hundred forty-seven point eleven (247.11), two hundred forty-seven point twelve (247.12), two hundred forty-seven point thirteen (247.13), two hundred forty-seven point fourteen (247.14), two hundred forty-seven point fifteen (247.15), two hundred forty-seven point sixteen (247.16), two hundred forty-seven point seventeen (247.17), two hundred forty-seven point eighteen (247.18), two hundred forty-seven point nineteen (247.19), two hundred forty-seven point twenty-four (247.24), two hundred forty-seven point twenty-five (247.25), two hundred forty-seven point twenty-six (247.26), two hundred forty-seven point twenty-seven (247.27), two hundred forty-seven point twenty-eight (247.28), two hundred forty-seven point thirty-three (247.33), two hundred forty-seven A point six (247A.6), two hundred forty-eight point three (248.3), two hundred fifty-two point nineteen (252.19), two hundred ninety-nine point twelve (299.12), three hundred twenty-one point seventy-six (321.76), three hundred twenty-one point seventy-seven (321.77), three hundred twenty-one point eighty (321.80), three hundred twenty-one point eighty-two (321.82), three hundred twenty-one point eighty-three (321.83), three hundred thirty-four point four (334.4), three hundred thirty-eight point ten (338.10), three hundred forty-three point six (343.6), three hundred fifty-six point thirty-six (356.36), four hundred forty-one point fifty-three (441.53), four hundred fifty-four point twenty-seven (454.27), four hundred seventy-four point forty-one (474.41), five hundred eleven point nineteen (511.19), five hundred fifty-two point three (552.3), six hundred to point fifteen (602.15), seven hundred thirteen point one (713.1), seven hundred thirteen point two (713.2),

seven hundred thirteen point three (713.3), seven hundred thirteen point four (713.4), seven hundred thirteen point five (713.5), seven hundred thirteen point six (713.6), seven hundred thirteen point seven (713.7), seven hundred thirteen point eight (713.8), seven hundred thirteen point nine (713.9), seven hundred thirteen point ten (713.10), seven hundred thirteen point eleven (713.11), seven hundred thirteen point twelve (713.12), seven hundred thirteen point thirteen (713.13), seven hundred thirteen point fourteen (713.14), seven hundred thirteen point fifteen (713.15), seven hundred thirteen point sixteen (713.16), seven hundred thirteen point twenty-two (713.22), seven hundred thirteen point twenty-three (713.23), seven hundred thirteen point twenty-six (713.26), seven hundred thirteen point twenty-seven (713.27), seven hundred thirteen point twenty-eight (713.28), seven hundred thirteen point twenty-nine (713.29), seven hundred thirteen point thirty (713.30), seven hundred thirteen point thirty-one (713.31), seven hundred thirteen point thirty-two (713.32), seven hundred thirteen point thirty-three (713.33), seven hundred thirteen point thirty-four (713.34), seven hundred thirteen point thirty-five (713.35), seven hundred thirteen point thirty-six (713.36), seven hundred thirteen point thirty-seven (713.37), seven hundred thirteen point thirty-eight (713.38), seven hundred thirteen point thirty-nine (713.39), seven hundred thirteen point forty (713.40), seven hundred thirteen point forty-one (713.41), seven hundred thirteen point forty-two (713.42), seven hundred thirteen point forty-three (713.43), seven hundred forty point one (740.1), seven hundred forty point two (740.2), seven hundred forty point three (740.3), seven hundred forty point four (740.4), seven hundred forty point five (740.5), seven hundred forty point six (740.6), seven hundred forty point seven (740.7), seven hundred forty point eight (740.8), seven hundred forty point nine (740.9), seven hundred forty point ten (740.10), seven hundred forty point eleven (740.11), seven hundred forty point

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twelve (740.12), seven hundred forty point nineteen (740.19), seven hundred forty point twenty (740.20), seven hundred fifty-three point one (753.1), seven hundred fifty-three point two (753.2), seven hundred fifty-three point three (753.3), seven hundred fifty-three point four (753.4), seven hundred fifty-three point five (753.5), seven hundred fifty-three point six (753.6), seven hundred fifty-three point seven (753.7), seven hundred fifty-three point eight (753.8), seven hundred fifty-three point nine (753.9), seven hundred eighty-two point nine (782.9), seven hundred eighty-two point ten (782.10), and seven hundred eighty-two point eleven (782.11), Code 1975, are repealed.

Sec. 519. Chapters six hundred eighty-seven (687), six hundred eighty-eight (688), six hundred eighty-nine (689), six hundred ninety (690), six hundred ninety-one (691), six hundred ninety-two (692), six hundred ninety-three (693), six hundred ninety-four (694), six hundred ninety-five (695), six hundred ninety-six (696), six hundred ninety-seven (697), hundred ninety-eight (698), six hundred ninety-nine (699), en hundred (700), seven hundred one (701), seven hundred (702), seven hundred three (703), seven hundred four 4), seven hundred five (705), seven hundred six (706), en hundred seven (707), seven hundred eight (708), seven dred nine (709), seven hundred ten (710), seven hundred ven (711), seven hundred twelve (712), seven hundred rteen (714), seven hundred fifteen (715), seven hundred sixteen (716), seven hundred seventeen (717), seven hundred eighteen (718), seven hundred nineteen (719), seven hundred twenty (720), seven hundred twenty-one (721), seven hundred twenty-two (722), seven hundred twenty-three (723), seven hundred twenty-four (724), seven hundred twenty-five (725), seven hundred twenty-seven (727), seven hundred twenty-eight (728), seven hundred twenty-nine (729), seven hundred thirty-one (731), seven hundred thirty-one A (731A), seven hundred thirty-two (732), seven hundred thirty-four (734), seven

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hundred thirty-seven (737), seven hundred thirty-eight (738), seven hundred thirty-nine (739), seven hundred forty-one (741), seven hundred forty-two (742), seven hundred forty-three (743), seven hundrend forty-four (744), seven hundred forty-five (745), seven hundred forty-six (746), seven hundred forty-seven (747), seven hundred forty-eight (748), seven hundred fifty-one (751), seven hundred fifty-two (752), seven hundred fifty-four (754), seven hundred fifty-five (755), seven hundred fifty-six (756), seven hundred fifty-seven (757), seven hundred fifty-eight (758), seven hundred sixty (760), seven hundred sixty-one (761), seven hundred sixty-two (762), seven hundred sixty-three (763), seven hundred sixty-four (764), seven hundred sixty-five (765), seven hundred sixty-six (766), seven hundred sixty-seven (767), seven hundred sixty-eight (768), seven hundred sixty-nine (769), seven hundred seventy (770), seven hundred seventy-one (771), seven hundred seventy-two (772), seven hundred seventy-three (773), seven hundred seventy-four (774), seven hundred seventy-five (775), seven hundred seventy-six (776), seven hundred seventy-seven (777), seven hundred seventy-eight (778), seven hundred seventy-nine (779), seven hundred eighty (780), seven hundred eighty-one (781), seven hundred eighty-two (782), seven hundred eighty-three (783), seven hundred eighty-four (784), seven hundred eighty-five (785), seven hundred eighty-six (786), seven hundred eighty-seven (787), seven hundred eighty-eight (788), seven hundred eighty-nine (789), seven hundred eighty-nine A (789A), seven hundred ninety (790), seven hundred ninety-one (791), seven hundred ninety-three (793), seven hundred ninety-four (794), and seven hundred ninety-five (795), Code 1975, are repealed.

Sec. 520. APPLICABILITY TO OFFENSES COMMITTED BEFORE THE EFFECTIVE DATE.

1. Except as provided in subsections two (2) and three (3) of this section, this Act does not apply to offenses committed before its effective date. Prosecutions for offenses

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committed before the effective date are governed by the prior law, which is continued in effect for that purpose, as if this Act were not in force. For purposes of this section, an offense is committed before the effective date if any of the elements of the offense occurred before that date.

2. In any case pending on or commenced after the effective date of this Act, involving an offense committed before that date:

a. Upon the request of the defendant a defense or mitigation under this Act, whether specifically provided for herein or based upon the failure of the Act to define an applicable offense, shall apply; and

b. Upon the request of the defendant and the approval of the court:

(1) Procedural provision of this Act shall apply insofar as they are justly applicable; and

(2) The court may impose a sentence or suspend imposition of a sentence under the provisions of this Act applicable to the offense and the offender.

3. Provisions of this Act governing the release or discharge of prisoners, probationers, and parolees shall apply to persons under senence for offenses committed before the effective date of this Act, except that the minimum or maximum period of their detention or supervision shall in no case be increased, nor shall the provisions of this Act affect the substantive or procedural validity of any judgment of conviction entered before the effective date of this Act, regardless of the fact that appeal time has not run or that an appeal is pending.

EXPLANATION

This bill comprises a complete revision of Iowa substantive criminal law, criminal procedure law and sentencing and post-conviction procedure laws. With a few exceptions it completely replaces titles thirty-five and thirty-six of the Code.

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S.F. 85 H.F. _____

The bill is divided into four chapters. Chapter one contains substantive criminal law and is subdivided into twenty-eight divisions covering such topics as conspiracy, homicide, assault, sexual abuse, theft, weapons, trespass, and arson. The second chapter covers criminal procedure. It is divided into nineteen divisions representing a revision of forty-seven chapters in the current Code and attempts to detail all aspects of criminal procedure for arrest through commencement of a criminal action, trial and appeals. Chapter three is composed of nine divisions covering sentencing, probation and parole procedures.

Chapter four adjusts criminal penalties found in the Code to comport with the sentencing scheme of this Act.

LSB 834
be/jw/5

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Senate Amendments incorp into S.F 85 as originally passed by the Senate

SENATE FILE 85

S-3090

Amend Senate File 85, page 56, line 8, by striking the word "simple" and inserting in lieu thereof the word "serious".

S-3090 FILED - adopted 2/17 BY JAMES M. REDMOND
FEBRUARY 12, 1975

SENATE FILE 85

S-3094

Amend Senate File 85 as follows:

1. Page 1, by striking lines 15, 16 and 17. withdrawn

2. Page 1, by striking lines 22 through 29 and inserting in lieu thereof the following:

"Sec. 105. NEW SECTION. INSANITY. No person shall be convicted of any crime if at the time such crime is committed he suffers from such a diseased or deranged condition of the mind so as to render him incapable of knowing the nature and quality of the act he 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." adopted 2/17

3. Page 2, line 2, by inserting before the word "Evidence" the following: "All persons are presumed to know the law." adopted 2/17

4. By renumbering the sections.

S-3094 FILED BY EUGENE M. HILL
FEBRUARY 13, 1975

SENATE FILE 85

S-3095

Amend Senate File 85, page 12, by striking line 19 and inserting in lieu thereof the words "one person agreeing with another person or persons".

S-3095 FILED - adopted 2/17
FEBRUARY 13, 1975

BY GENE W. GLENN, CHAIRMAN
JUDICIARY COMMITTEE

S-3096

Amend Senate File 85, page 217, line 34, by striking the words and figures "two hundred six (206)" and insert in lieu thereof the words and figures "two hundred seven (207)".

S-3096 FILED - adopted 2/18
FEBRUARY 13, 1975

BY GENE W. GLENN, CHAIRMAN
JUDICIARY COMMITTEE

SENATE FILE 85

S-3097

Amend Senate File 85, page 18, line 35, by inserting after the word "wife" the words "or a man and wife who are not at the time cohabiting as man and wife".

S-3097 FILED - Withdrawn 2/18
FEBRUARY 13, 1975

BY GENE W. GLENN, CHAIRMAN
JUDICIARY COMMITTEE

SENATE FILE 85

S-3098

Amend Senate File 85 as follows:

1. Page 1, by striking lines 15, 16 and 17.
2. Renumbering the remaining sections in accordance with this amendment.

S-3098 FILED - adopted 2/17
FEBRUARY 13, 1975

BY GENE W. GLENN, CHAIRMAN
JUDICIARY COMMITTEE

SENATE FILE 85

S-3099

Amend Senate File 85, page 56, by striking lines 12 through 16 and inserting in lieu thereof the following:

"Section 2601. NEW SECTION. BIGAMY. Any person, having a living husband or wife, who marries another, commits bigamy. Any of the following is a defense to the charge of bigamy:".

S-3099 FILED - adopted 2/17
FEBRUARY 13, 1975

BY GENE W. GLENN, CHAIRMAN
JUDICIARY COMMITTEE

SENATE FILE 85

S-3100

Amend Senate File 85 as follows:

1. Page 146, strike lines 31 through 35 and insert in lieu thereof the words "DURING DELIBERATIONS. No juror shall be permitted to take notes during the testimony of witnesses. Upon retiring".
2. Page 147, lines 2 and 3, strike the words "any notes of testimony taken in the trial by the jurors,".

S-3100 FILED - adopted 2/15
FEBRUARY 13, 1975

BY GENE W. GLENN, CHAIRMAN
JUDICIARY COMMITTEE

FEBRUARY 17, 1975

SENATE FILE 85

S-3110

Amend Senate File 85 as follows:

1. Page 13, by striking lines 32 and 33 and renumbering the remaining subsections to accord with this amendment.

A Withdrawn 2/21 (42

2. Page 15, by striking lines 20 through 32 and inserting in lieu thereof the following new sections:

"Sec. ___. NEW SECTION. FETICIDE. Any person who intentionally terminates a human pregnancy after the end of the second trimester of the pregnancy commits feticide. Feticide is a class C felony. This section shall not apply to the termination of a human pregnancy performed by a physician licensed in this state to practice medine or surgery when in the best clinical judgment of the physician the termination is performed to preserve the life or health of the pregnant person and every medical effort not inconsistent with preserving the life of the pregnant person is made to preserve the life of the fetus.

Sec. ___. NEW SECTION. NONCONSENTUAL TERMINATION.

1. A person who terminates a human pregnancy without the consent of the pregnant person during the commission of a felony or assault is guilty of a class B felony.

2. A person who intentionally terminates a pregnancy without the knowledge and consent of the pregnant person is guilty of a class C felony. This subsection shall not apply to a termination performed without the consent or knowledge of the pregnant person by a physician licensed in this state to practice medicine or surgery when circumstances preclude the pregnant person from providing her consent and the termination is performed to preserve the life or health of the pregnant person.

adopted as amen by 3175 2/21 (426)

3. A person who by force or intimidation procures the consent of the pregnant person to a termination of a pregnancy is guilty of a class C felony.

B

Sec. ___. NEW SECTION. HOMICIDE OF PREMATURE FETUS ABORTED ALIVE. A person who intentionally kills a premature fetus aborted alive shall be guilty of a class B felony.

C - adopted as amended by 3149 3189 2/21 (p. 428

Sec. ___. NEW SECTION. DUTY TO PRESERVE LIFE OF FETUS ABORTED ALIVE. A person who lawfully performs or induces a termination of a human pregnancy and who fails to exercise the degree of professional care, skill, and diligence availble to preserve the life of an aborted fetus showing signs of life shall be guilty of a serious misdemeanor."

C

B - adopted

3. By renumbering the sections and internal references to accord with this amendment.

S-3110 FILED B, C adopted, A w.d.
FEBRUARY 14, 1975

BY COMMITTEE ON JUDICIARY
GENE W. GLENN, CHAIRMAN

S-3105

Amend Senate File 85 as follows:

1. Page 225, line 31, by striking the word "shall" and inserting in lieu thereof the word "may".

2. Page 225, line 32, by striking the word "shall" and inserting in lieu thereof the word "may".

3. Page 238, line 22, by inserting after the period the following new sentences:

"The magistrate may order the alleged parole violator confined in the county jail or may order the alleged parole violator released on bail under such terms and conditions as the magistrate may require. Admittance to bail is discretionary with the magistrate and is not a matter of right."

4. Page 238, by inserting after line 22 the following new section:

"Sec. ___. NEW SECTION. PLACE OF PROBABLE CAUSE HEARING. The probable cause hearing shall be held in the same county as the alleged parole violator had his or her initial appearance. The clerk of court shall provide a room suitable for the probable cause hearing."

5. Page 238, line 24, by striking the words "the magistrate" and inserting in lieu thereof the words "a liaison officer appointed pursuant to section four hundred six (406) of this chapter".

6. Page 238, line 31, by striking the word "magistrate" and inserting in lieu thereof the words "liaison officer".

7. Page 239, line 1, by striking the word "magistrate" and inserting in lieu thereof the words "liaison officer".

8. Page 239, line 3, by striking the word "magistrate" and inserting in lieu thereof the words "liaison officer".

9. Page 239, line 10, by striking the word "magistrate" and inserting in lieu thereof the words "liaison officer".

10. Page 239, by striking lines 12 through 15.

11. Page 239, line 16, by striking the word "MAGISTRATE" and inserting in lieu thereof the words "LIAISON OFFICER".

12. Page 239, line 19, by striking the word "magistrate" and inserting in lieu thereof the words "liaison officer".

13. Page 239, line 22, by striking the word "magistrate" and inserting in lieu thereof the words "liaison officer".

14. Page 239, lines 24 and 25, by striking the words and figure "one hundred seven (107)" and inserting in lieu thereof the words and figure "one

hundred eight (108)".

15. Page 239, line 27, by striking the words and figure "seven hundred six (706) of this chapter" and inserting in lieu thereof the words and figure "eight hundred two (802) of this chapter".

16. Page 239, lines 27 and 28, by striking the words "committing magistrate" and inserting in lieu thereof the words "liaison officer".

17. Page 240, line 6, by striking the word "magistrate" and inserting in lieu thereof the words "liaison officer".

18. Page 240, lines 10 through 12, by striking the words ", to present evidence in his behalf, and to cross examine adverse witnesses,".

19. Page 240, line 26, by striking the word "magistrate" and inserting in lieu thereof the words "liaison officer".

20. Page 242, line 9, by striking the words "committing magistrate" and inserting in lieu thereof the words "liaison officer".

21. By renumbering the sections and internal references to accord with this amendment.

S-3105 FILED - adopted 2/18 (p. 372)
FEBRUARY 14, 1975

BY COMMITTEE ON JUDICIARY
GENE W. GLENN

S-3106

Amend Sente File 85 as follows:

1. Page 118, line 28, by inserting before the word "in" the word "if".

2. Page 118, line 29, by striking the semi-colon (;) and inserting in lieu thereof the words "a joint trial will not result in prejudice to one of the parties."

3. Page 118, line 29, by striking the word "where" and inserting in lieu thereof the word "Where".

S-3106 FILED - Withdrawn 2/25 (465)
FEBRUARY 14, 1975

BY COMMITTEE ON JUDICIARY
GENE W. GLENN

S-3108

Amend Senate File 85, page 56, line 27, by inserting after the word "person" the words ", except a child as defined in this Act,".

S-3108 FILED - adopted 2/19 (p. 344)
FEBRUARY 14, 1975

BY COMMITTEE ON JUDICIARY
GENE W. GLENN, CHAIRMAN

S-3109

Amend Senate File 85, page 104, line 2 by striking the first word "court".

S-3109 FILED - adopted 2/17 (p. 344)
FEBRUARY 14, 1975

BY COMMITTEE ON JUDICIARY
GENE W. GLENN, CHAIRMAN

SENATE FILE 85

S-3111

Amend Senate File 85, page 193, line 32, by inserting after the word "general" the words "and the clerk of the supreme court."

S-3111 FILED - adopted 2/18 (368)
FEBRUARY 14, 1975

BY COMMITTEE ON JUDICIARY
GENE W. GLENN, CHAIRMAN

SENATE FILE 85

S-3114

Amend Senate File 85 as follows:

1. Pages 13, 14, 15 and 16 by striking all of Division VII of Chapter 1 and inserting in lieu thereof the following:

DIVISION VII

HOMICIDE

Section 701. NEW SECTION. HOMICIDE. The unlawful killing of another as specified in sections seven hundred two (702), seven hundred three (703), seven hundred four (704) and seven hundred eight (708) of this Act is homicide.

Sec. 702. NEW SECTION. MURDER. Whoever kills any human being with malice aforethought, either express or implied is guilty of murder.

Sec. 703. NEW SECTION. FIRST DEGREE MURDER. All murder which is perpetrated by means of poison, or lying in wait, or any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of any forcible felony is murder in the first degree and shall be punished as a capital offense.

Sec. 704. NEW SECTION. SECOND DEGREE MURDER. All other murder is murder in the second degree, a class A felony.

Sec. 705. NEW SECTION. ASSAULT WITH INTENT TO MURDER. If any person assault another with intent to commit murder, such person shall be guilty of a class B felony.

Sec. 706. NEW SECTION. POISONING FOOD OR DRINK WITH INTENT TO KILL. If any person mingle any poison with any food, drink, or medicine, with intent to kill or injure any human being, or willfully poison any spring, well, cistern, or reservoir of water, such person shall be guilty of a class B felony.

Sec. 707. NEW SECTION. ADVISING OR INCITING MURDER. Whoever shall within this state advise, counsel, encourage, advocate, or incite the unlawful killing within or without the state of any human being, although no such killing takes place, shall be guilty of a class C felony.

Sec. 708. NEW SECTION. MANSLAUGHTER. Whoever acts so as to kill or cause the death of any person without malice aforethought, but with a willful, wanton or reckless disregard for the safety of persons, of by operation of a motor vehicle while under the influence of alcohol or a controlled substance, or whoever sells, gives away or otherwise furnishes intoxicating liquor or controlled substances contrary to law, and thereby causes the death of another, shall be quilty of manslaughter, a class C felony.

2. Page 21, line 30, by striking the letter "B" and inserting in lieu thereof the letter "A".

3. Page 216, Chapter 3, Division II, after "FELONIES" in line 1, by inserting the following:

Sec. __. NEW SECTION. CAPITAL OFFENSES. Any person convicted of a capital offense must be put to death by hanging, unless the only victim or victims of first degree murder as specified in division seven (VII), section seven hundred three (703), is or are the murderer's spouse, former spouse, mother, father, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepson, stepdaughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, half brother, half sister, aunt, uncle, niece, nephew, first cousin, employer, employee, business partner, fellow worker or associate, and the offense is committed while under the influence of sudden and violent anger caused by an act or acts of any of said persons, in which event such capital offense shall be punished as a class A felony.

Sec. __. NEW SECTION. TIME OF EXECUTION. When the punishment is fixed as death, the court pronouncing judgment shall fix the day of the execution thereof, which shall not be less than one year after the day on which the judgment is rendered, and not longer than fifteen months, during which time the defendant shall be imprisoned in the penitentiary.

Sec. __. NEW SECTION. RECORD SENT GOVERNOR. Immediately after entry of judgment of death, the court rendering the same must transmit by mail to the governor a copy of the indictment, plea, verdict, judgment, and testimony in the case.

Sec. __. NEW SECTION. COPY OF JUDGMENT AUTHORITY FOR EXECUTION. When a judgment of death is pronounced, a certified copy of the entry thereof in the record book must be furnished to the officer whose duty it is to execute the same, who shall proceed accordingly, and no other warrant or authority is necessary to require or justify the execution.

Sec. __. NEW SECTION. REPRIEVE OR SUSPENSION. The only officers who shall have power to reprieve or suspend the execution of a judgment of death are the governor and, as provided in this chapter, the warden of the penitentiary; except in cases of appeal to the supreme court.

Sec. __. NEW SECTION. INSANITY OR PREGNANCY. When the warden of the penitentiary is satisfied that there are reasonable grounds for believing that a defendant in the warden's charge under sentence of

death is insane or pregnant, the warden shall notify the commissioners of hospitalization of the county wherein the penitentiary is located, who shall be sworn by the warden well and truly to inquire into the facts as to the insanity or pregnancy of the defendant, as the case may be, and return a true report of their findings.

Sec. __. NEW SECTION. FINDING OF COMMISSIONERS. The commissioners, after being sworn, shall examine the defendant and hear any evidence that may be presented, and may examine the medical attendants at the penitentiary, if necessary, to ascertain the facts, and make report thereon in writing, signed by not less than a majority of them, finding as to the fact of insanity or pregnancy.

Sec. __. NEW SECTION. EXECUTION SUSPENDED. If the report does not show the defendant to be insane or pregnant, the warden shall not suspend the execution; but if it does, the warden shall suspend the execution, and immediately transmit the report to the governor.

Sec. __. NEW SECTION. . EXECUTIVE WARRANT OF EXECUTION. When a judgment of death from any cause has not been executed on the day appointed by the court therefor, the governor, by a warrant under the seal of the state, shall fix the day of execution, which warrant shall be obeyed by the sheriff, and no one but the governor can then suspend its execution.

Sec. __. NEW SECTION. TIME AND MANNER OF EXECUTION. A judgment of death must be executed by the sheriff of the county in which the judgment was rendered, or the deputy sheriff, within the walls of the penitentiary where the defendant is confined, or within a yard or enclosure adjoining thereto, on the day fixed in the judgment, between sunrise and sunset, by hanging by the neck until dead.

Sec. __. NEW SECTION. WITNESSES TO EXECUTION. The sheriff or the sheriff's deputy must, at least three clear days before executing a judgment of death, notify the judge of the district court who tried the case, or, if the judge be not in office, another judge of such court, the county attorney and the clerk of the district court of the county in which the judgment was rendered, the sheriff of the county in which the offense was committed, if other than that in which judgment was rendered, and two physicians and twelve respectable citizens of the state to be selected by the sheriff to be present as witnesses at such execution. The sheriff must also, at the request of the defendant, permit one or more ministers of

the gospel, named by the sheriff, and any of the defendant's relatives, to attend the execution, and also such magistrates, peace officers, and guards as the sheriff shall deem proper, but no minor, and no person other than those herein authorized, shall be present.

Sec. __. NEW SECTION. CERTIFICATE OF EXECUTION. The sheriff or his deputy executing the judgment of death must prepare and sign with the sheriff's name of office a certificate, setting forth the time and place of the execution, and that judgment was executed upon the defendant according to the foregoing provisions, and cause the certificate to be signed by the public officers, and at least twelve persons, not relations of the defendant, who witnessed the same.

Sec. __. NEW SECTION. CERTIFICATE FILED AND PUBLISHED. The sheriff or his deputy executing such judgment must cause the certificate to be filed in the office of the clerk of the district court of the county in which the judgment was rendered, and cause a copy thereof to be published in one newspaper printed at the capital of the state, and in one newspaper in the county where the judgment was entered.

Sec. __. NEW SECTION. STAY OF EXECUTION OF APPEAL. An appeal from a judgment of death shall stay the infliction of that punishment, but the defendant is to be retained in custody without bail to abide the judgment thereon.

Sec. __. NEW SECTION. PRECEEDINGS ON APPEAL. When an appeal is taken from a judgment of death, the clerk of the district court in which is was rendered shall at once give the defendant or the defendant's attorney a certificate under the seal of the court, certifying that fact, and the sheriff or other officer having the defendant in custody must, upon the delivery to the sheriff of the certificate, suspend further proceedings on the judgment until final judgment on the appeal is certified to the sheriff by the clerk of the supreme court.

Sec. __. NEW SECTION. PROCEEDINGS ON AFFIRMANCE-ISSUANCE OF WARRANT. When such judgment is affirmed, the supreme court must cause a copy of its judgment to be delivered to the governor, and to the sheriff whose duty it is to execute such judgment, signed by the clerk thereof and under seal of the court, and the governor shall issue a warrant of execution under the seal of the state, and transmit it by messenger or mail to the sheriff whose duty it is to execute the judgment, directing the sheriff, on

a day and at an hour therein named, not earlier than the day fixed by the district court, to execute such judgment in the manner required by law.

Sec. __. NEW SECTION. EXECUTION OF WARRANT. The sheriff shall execute such warrant in the manner provided in this chapter, and report the sheriff's doings to the governor and the district court whose judgment was appealed from, and make the publication of the sheriff's doings in the manner provided for in this chapter. If from any cause the judgment is not executed on the day named in the warrant, the governor may appoint another, and so on until it is done.

4. Page 216 by striking lines two (2) through twenty (20) and inserting in lieu thereof the following:

Sec. __. NEW SECTION. CLASS A FELONY. Upon conviction of a class A felony, the court shall sentence the defendant to the penitentiary for life. Nothing in this chapter pertaining to deferred judgment or sentence, suspended sentence or probation shall apply to a class A felony, and no person convicted of a class A felony shall be released on parole unless the governor commutes the sentence to a term of years.

Sec. __. NEW SECTION. RECORD REVIEWED. AT any time after a person has served fifteen years of a life sentence, the board of parole shall interview the person and interview the person's record. If, in the opinion of the board, the person should be considered for release on parole, the board shall recommend to the governor that the person's sentence be commuted to a term of years. If the person's sentence is so commuted, the person shall be eligible for parole as provided in division six (VI) of this chapter.

5. Page 90, line 34, after the comma insert the words "unless charged with a capital offense when the proof is evident or the presumption great, and ".

6. Correct any sections or internal references required by this amendment.

BY

JAMES W. GRIFFIN SR.
RAY TAYLOR
DALE L. TIEDEN
JAMES E. BRILES
JOSEPH COLEMAN
NORMAN RODGERS
CLIFF BURROUGHS
CALVIN O HULTMAN
W. R. REBEDEAUX
ELIZABETH R. MILLER
IRVIN L. BERGMAN
RICHARD J. NORPEL, SR.
FRED W. NOLTING

S-3114 FILED
FEBRUARY 14, 1975

S-3114 FILED - Ruled out of order 2/20 (4/9)
FEBRUARY 14, 1975

S-3122

Amend Senate File 85 as follows:

1. Page 213, line 20, by adding after the word "made." the following:

"If the offense is not a felony, the court may, in its discretion, order that a presentence investigation be made whenever the maximum period of confinement which may be imposed is in excess of thirty days." A

2. Page 227, by inserting after line 17, the following new paragraph:

"When a person is released on parole, the chief parole officer shall notify the sheriff in the county and the chief of police of any cities in the county where the person released on parole is to reside of the release of that person, and the terms and conditions of the person's parole." B

3. Page 225, by inserting after line 18 the following new paragraph:

"A person aiding in or attempting an escape, or a person escaping from custody, while committed to the custody of the director of the division of adult corrections shall not be eligible for parole, and shall serve the maximum sentence which may be imposed for the offense for which the person was committed." C

4. Page 238, line 4, by inserting after the word "officer" the words "or any peace officer". D

S-3122 FILED A and B adopted, C and D lost BY RICHARD R. RAMSEY
FEBRUARY 17, 1975 2/18 pp. 369, 370 WILLIAM P. WINKLEMAN

S-3112

Amend Senate File 85 as follows:

1. Page 21, lines 29 and 30, by striking the words ", or where the purpose of the kidnapping is to hold him for ransom".

2. Page 21, line 30, strike the letter "B" and insert in lieu thereof the letter "A".

3. Page 21, by inserting after line 31 the following new section:

"Sec. 1003. NEW SECTION. KIDNAPPING IN THE SECOND DEGREE. Kidnapping where the purpose is to hold the victim for ransom or where the kidnapper is armed with a firearm or displays a dangerous weapon is kidnapping in the second degree. Kidnapping in the second degree is a class B felony."

4. By renumbering the remaining sections in accordance with this amendment.

5. Page 21, line 32, by striking the word "SECOND" and inserting in lieu thereof the word "THIRD".

S-3112 FILED - Adopted 2/17 (p. 343) BY COMMITTEE ON JUDICIARY
FEBRUARY 14, 1975 Motion to reconsider 2/17 (p. 345) GENE W. GLENN, CHAIRMAN
Rd. 2/21 (431)

S-3118

Amend Senate File 85 as follows:

1. Page 318, by inserting after line 6 the following:

"Sec. ___. Section two hundred four point four hundred one (204.401), subsection three (3), Code 1975 is amended to read as follows:

3. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a serious misdemeanor~~:--and-upon-conviction-shall-be punished-by-imprisonment--in-the-county-jail-for-not-to exceed-one-year,-or-by-a-fine-of-not-more-than-one thousand-dollars,-or-both-such-imprisonment-and-fine:~~ If the controlled substance is marijuana, the ~~punishment-shall be-by-imprisonment-in-the-county-jail-for-not-more-than six-months-or-by-a-fine-of-not-more-than-one-thousand dollars,-or-by-both-such-fine-and-imprisonment~~ person is guilty of a simple misdemeanor. All or any part of a sentence imposed pursuant to this section may be suspended and the person placed upon probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court."

2. By renumbering the remaining sections to accord with this amendment.

S-3118 FILED - Lost 2/19 (395) BY COMMITTEE ON JUDICIARY
FEBRUARY 14, 1975 GENE W. GLENN, CHAIRMAN

S-3115

Amend Senate File 85, page 46, line 33, by striking the words "who, having heard", and inserting in lieu thereof the words "within hearing distance of".

S-3115 FILED - adopted 2/24 (444) BY CHARLES P. MILLER
FEBRUARY 14, 1975

S-3119

Amend Senate File 85 as follows:

1. Page 166, by striking lines 20 through 35 and inserting in lieu thereof the following:

"1. When a person is formally charged with a public offense, if an indictment be not found against him within forty-five days, the court must order the prosecution to be dismissed, unless good cause to the contrary be shown. An accused not admitted to bail and unrepresented by legal counsel shall not be deemed to have waived the privilege of dismissal or be held to make demand or request to enforce a guarantee of speedy trial, and the court on its own motion shall carry out the provisions of this section as to dismissal.

2. If a defendant indicted for a public offense, whose trial has not been postponed upon his application, be not brought to trial within sixty days after the indictment is found, the court must order it to be dismissed, unless good cause to the contrary be shown. An accused not admitted to bail and unrepresented by legal counsel, shall not be deemed to have waived his privilege of dismissal or be held to make demand or request to enforce a guarantee of speedy trial, and the court on its own motion shall carry out the provisions of this section as to dismissal.

3. If the defendant be not indicted or tried as above provided, and sufficient reason therefor is shown, the court may order the prosecution continued and discharge the defendant from custody on his own undertaking, or on the undertaking of bail for his appearance to answer the charge at the time to which the same is continued, but no continuance under this section shall be extended for more than ninety days beyond the date within which the trial would otherwise be required.

4. If the court direct the prosecution to be dismissed, the defendant, if in custody, must be discharged, or his bail, if any, exonerated, and if money has been deposited instead of bail, it must be refunded to him.

5. The court, upon its own motion or the application of the prosecuting attorney, in the furtherance of justice, may order the dismissal of any pending criminal prosecution, the reasons therefor being stated in the order and entered of record, and no such prosecution shall be discontinued or abandoned in any other manner. Such a dismissal is a bar to another prosecution for the same offense if it is a misdemeanor; but it is not a bar if the offense

charged be a felony."

2. By striking pages 167 and 168.

3. Page 169, by striking lines 1 through 33.

S-3119 FILED - adopted as amended by 3150 2/18 p. 368
FEBRUARY 14, 1975

BY COMMITTEE ON JUDICIARY
GENE W. GLENN, CHAIRMAN

S-3120

Amend Senate File 85 as follows:

1. Page 5, line 10, by striking the words "homicide, assault" and inserting in lieu thereof the words "assault, homicide". A - adopted 2/19

2. Page 13, by striking lines 23 through 35 and inserting in lieu thereof the following new sections: B adopted 2/20 (4

"Sec. ___. NEW SECTION. CRIMINAL HOMICIDE DEFINED. A person who kills another person with malice aforethought either express or implied commits criminal homicide.

Sec. ___. NEW SECTION. CRIMINAL HOMICIDE IN THE FIRST DEGREE. A person commits criminal homicide in the first degree when he or she commits criminal homicide under any of the following circumstances:

1. The person willfully, deliberately, and with premeditation kills another person.

2. The person kills another person while participating in a forcible felony.

3. The person kills another person while escaping or attempting to escape from lawful custody.

Criminal homicide in the first degree is a class A felony.

Sec. ___. NEW SECTION. CRIMINAL HOMICIDE IN THE SECOND DEGREE. A person commits criminal homicide in the second degree when he or she commits criminal homicide which is not criminal homicide in the first degree.

Criminal homicide in the second degree is a class B felony.

Sec. ___. NEW SECTION. MANSLAUGHTER. A person who commits manslaughter is guilty of a class C felony." C adopted as amended 3/28 2/19-(396) B

3. By striking page 14.

4. Page 15 by striking lines 1 through 19.

5. By renumbering the sections and internal references to accord with this amendment.

S-3120 FILED - adopted as amended by 3/28
FEBRUARY 14, 1975

BY COMMITTEE ON JUDICIARY
GENE W. GLENN, CHAIRMAN

S-3124

Amend the Griffin, et. al., amendment, S-3114, to page 13 of Senate File 85 as follows:

1. Page 2, line 6, by inserting after the word "person" the words ", except a person under eighteen years of age,".

2. Page 2, line 21, by inserting after the word "felony." the sentence "If a person under the age of eighteen is convicted of a capital offense, the offense shall be punished as a class A felony."

S-3124 FILED Ruled out of order 2/20 (4/9)
FEBRUARY 17, 1975

BY WILLIAM N. PLYMAT
WILLIAM E. GLUBA
EARL M. WILLITS

S-3141

Amend Senate File 85 as follows:

1. Page 1, by inserting after line 29 the following new section:

"SEC. ___. NEW SECTION. MENTAL DEFICIENCY. No person shall be convicted of any crime if, as a result of mental deficiency, he lacks substantial mental capacity either to appreciate the criminality of his or her conduct or to conform his or her conduct to the law."

2. By renumbering the remaining sections to accord with this amendment.

S-3141 FILED - Withd. 2/26 (p. 482) BY JOAN ORR
FEBRUARY 17, 1975

SENATE FILE 85

S-3142

Amend Senate File 85, page 153, line 30, by inserting after the word "thereof." the following sentence:

"It shall not be a requirement of this section that corroboration be necessary to obtain a conviction where the solicited person is a law enforcement agent, employee, official, or person working on behalf of a law enforcement agency within the scope of his employment."

S-3142 FILED - Lost 2/18 (p. 366) BY CALVIN O. HULTMAN
FEBRUARY 17, 1975

S-3121

Amend Senate File 85 as follows:

1. Page 44, line 31, by striking the words "judge, clerk, or canvasser of any election" and inserting in lieu thereof the words "precinct election official".

2. Page 45, line 8, by striking the words "Any person, being a judge or clerk of election," and inserting in lieu thereof the words "A precinct election official".

3. Page 45, by striking lines 19 through 21 and inserting in lieu thereof the following:

"5. Places or permits another election official to place into a ballot box anything other than a ballot as provided in section forty-nine point eighty-five (49.85) of the Code, or who permits any person other than an election official to place anything into a ballot box."

S-3121 FILED - Adopted 2/17 (p. 343) BY COMMITTEE ON JUDICIARY
FEBRUARY 14, 1975 GENE W. GLENN

S-3123

Amend amendment S-3110 to Senate File 85, page 13, as follows:

1. Line 38, by striking the words "premature fetus" and inserting in lieu thereof the word "person".

2. Line 45, by striking the word "fetus" and inserting in lieu thereof the word "person".

S-3123 FILED - Ruled out of order 2/21 (p. 427) BY PHILIP B. HILL
FEBRUARY 17, 1975

S-3125

Amend the Griffin, et. al., amendment, S-3114, to page 13 of Senate File 85 as follows:

1. Page 4, line 2, by striking the word ", and" and inserting in lieu thereof a period ".".

2. Page 4, by striking lines 3, 4, 5 and 6.

3. Page 4, by inserting the following section after line 6:

"Sec. ___. NEW SECTION. EXECUTION SHALL BE PUBLIC. All executions performed in this state shall be open to the public. The secretary of state shall cause to be published, in at least one newspaper of general circulation in this state, thirty days prior to the date of the execution, the date, time, and location of the execution.

All executions performed in this state shall be televised by the educational television network in this state, and the educational television network shall make videotapes of the execution. Videotapes of executions shall be made available, at reasonable cost, to any commercial television station, school, church, organization, fraternity, or other group in this state for showing to its viewers, students, or members. Commercial television stations in this state may cover executions performed in this state."

S-3125 FILED Ruled out of order 2/20 (419) BY WILLIAM N. PLYMAT
FEBRUARY 17, 1975 WILLIAM E. GLUBA

S-3129

Amend Senate File 85 as follows:

1. Page 127, by striking lines 30 and 31 and inserting in leiu thereof the following:

"to establish such alibi. In the event that a defendant shall file such notice the attorney for the government shall file and serve upon the defendant tne names and addresses of the witnesses the government proposes to offer in rebuttal to discredit the defendant's alibi. Such service shall be completed not less than five days after receipt of defendant's witness list, or within such other time as the court may direct. If either party shall fail to abide by the time periods heretofore described, the proponent".

2. Page 127, line 34 by striking the words "tne defendant" and inserting in lieu thereof the words, "either party".

3. Page 128, by striking lines 2 and 3 and inserting in lieu thereof the following:

"to establish or rebut the defendant's alibi. This rule shall not limit the right of the defendant".

S-3129 FILED - Adopted 2/18 (365) BY GENE W. GLENN
FEBRUARY 17, 1975

S-3130

Amend Senate File 85, page 11, line 18, by striking the words "some force" and insert in lieu thereof the words "an unwitting person and which is".

S-3130 FILED - Adopted 2-19 p. 391 BY GENE W. GLENN
FEBRUARY 17, 1975

S-3131

Amend Senate File 85, page 21, by inserting after line 9, the following new section:

"Sec. 909. NEW SECTION. COST OF MEDICAL EXAMINATION IN CRIMES OF SEXUAL ASSAULT. The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing veneral disease shall be borne by the county in which the crime was committed."

S-3131 FILED - adopted 2/21 (431) BY JAMES M. REDMOND
FEBRUARY 17, 1975

S-3132

Amend Senate File 85, page 147, by inserting on line 14 after the word "deliberation." the following new sentence:

"No instruction shall be given which would allow the jury to view the evidence in a case of sexual assault in a manner different than any other criminal cases."

S-3132 FILED - withdrawn 2/21 (428) BY JAMES M. REDMOND
FEBRUARY 17, 1975

S-3133

Amend Senate File 85, page 19, by striking lines 21 through 25, and inserting in lieu thereof the following:

"A person commits sexual assault in the second degree under any of the following circumstances:

1. In the course of such act, he or she displays in a threatening manner a deadly weapon or uses or threatens to use force creating a substantial risk of death or serious injury to any other person.
2. The other participant is a child.
3. The other participant is under 16 and the actor is a member of the same household as the other participant and they are related by blood or affinity to the fourth degree.
4. The actor is aided or abetted by one or other persons, and the sex act is committed by force and against the will of the other."

S-3133 FILED - withdrawn 2/21 (428) BY JAMES M. REDMOND
FEBRUARY 17, 1975

S-3134

Amend Senate File 85 as follows

1. Page 3, by striking lines 2 through 8.
2. By renumbering the sections.

S-3134 FILED AND WITHDRAWN BY EUGENE M. HILL
FEBRUARY 17, 1975

S-3135

Amend Senate File 85, page 27, line 10, by adding after the word "him." the following new sentence:

"Failure by a bailee or lessee of personal property to return the property within 72 hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation."

S-3135 FILED - adopted 2/21 (432) BY LUCAS J. DE KOSTER
FEBRUARY 17, 1975

Amend Senate File 85 as follows:

1. Page 220, line 8, by striking the word "five" and inserting in lieu thereof the word "two".

2. Page 220, line 14, by striking the words "thirty days" and inserting in lieu thereof the words "six months".

3. Page 220, line 14, by striking the word "one" and inserting in lieu thereof the word "five".

S-3136 FILED - Lost 2/18 (p. 372) BY EUGENE M. HILL
FEBRUARY 17, 1975

S-3137

Amend Senate File 85, page 36, line 13, by striking the word "aggravated" and inserting in lieu thereof the word "simple".

S-3137 FILED - Lost 2/24 (444) BY EUGENE M. HILL
FEBRUARY 17, 1975

S-3138

Amend Senate File 85 as follows:

1. Page 216, lines 11 and 12, by striking the words "unless the governor commutes the sentence to a term of years".

2. Page 218, line 15, by inserting after the word "for" the words "not less than fifteen years and".

3. Page 218, line 17, by inserting after the word "for" the words "not less than ten years and".

4. Page 218, line 20, by inserting after the word "for" the words "not less than five years and".

A - W.D. 2/18

B - Lost 2/18 p. 370

S-3138 FILED - Lost as amd. 2/18 BY EUGENE M. HILL
FEBRUARY 17, 1975

S-3139

Amend the Griffin, et. al., amendment, S-3114 to page 13 of Senate File 85, page 5, lines 23 and 24, by striking the words "unless the governor commutes the sentence to a term of years".

S-3139 FILED - Ruled out of order 2/20 BY EUGENE M. HILL
FEBRUARY 17, 1975 (419)

S-3140

Amend Senate File 85, page 18, by striking lines 9, 10 and 11.

S-3140 FILED - Lost 2-19 BY LOWELL JUNKINS
FEBRUARY 17, 1975 W. R. RABEDEAUX
CALVIN HULTMAN

Amend amendment S-3120, to page 5 of Senate File 85 as follows:

1. Page 1, by striking lines 30 through 32 and inserting in lieu thereof the following:

"Sec.____. NEW SECTION. VOLUNTARY MANSLAUGHTER. A person commits voluntary manslaughter when that person causes the death of another person, under circumstances which would otherwise be criminal homicide, if he or she acts solely as the result of sudden, violent, and irresistable 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 his or her control and suppress the impulse to kill.

Voluntary manslaughter may be proved as an included offense under an indictment for criminal homicide in the first or second degree.

Voluntary manslaughter is a class C felony.

Sec.____. NEW SECTION. INVOLUNTARY MANSLAUGHTER.

1. A person commits 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.

2. A person commits 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.

Involuntary manslaughter as defined in this section may be proved as an included offense under an indictment for criminal homicide in the first or second degree or voluntary manslaughter."

2. By renumbering the remaining section to accord with this amendment.

S-3128 - adopted 2/19 (396)
FEBRUARY 17, 1975

BY GENE W. GLENN

S-3127

Amend Senate File 85, page 18 as follows:

1. By striking lines 7 and 8.
2. By renumbering the remaining paragraphs.

S-3127 FILED - Lost 2/17 (p. 344)
FEBRUARY 17, 1975

BY CALVIN O. HULTMAN
DALE TIEDEN
W. R. RABEDEAUX

SENATE 11
FEBRUARY 18, 1975

SENATE FILE 85

S-3143

Amend amendment S-3114 to Senate File 85 by striking all after line 1 and inserting in lieu thereof:

1. Page 5, line 10, by striking the words "homicide, assault" and inserting in lieu thereof the words "assault, homicide".

2. Page 13, by striking lines 23 through 35 and inserting in lieu thereof the following new sections:

"Sec.___. NEW SECTION. CRIMINAL HOMICIDE DEFINED. A person who kills another person with malice aforethought either express or implied commits criminal homicide.

Sec.___. NEW SECTION. CRIMINAL HOMICIDE IN THE FIRST DEGREE. A person commits criminal homicide in the first degree when he or she commits criminal homicide under any of the following circumstances:

1. The person willfully, deliberately, and with premeditation kills another person.

2. The person kills another person while participating in a forcible felony.

3. The person kills another person while escaping or attempting to escape from lawful custody.

Criminal homicide in the first degree is a class A felony.

Sec.___. NEW SECTION. CRIMINAL HOMICIDE IN THE SECOND DEGREE. A person commits criminal homicide in the second degree when he or she commits criminal homicide which is not criminal homicide in the first degree.

Criminal homicide in the second degree is a class B felony.

Sec.___. NEW SECTION. VOLUNTARY MANSLAUGHTER. A person commits voluntary manslaughter when that person causes the death of another person, under circumstances which would otherwise be criminal homicide, if he or she acts solely as the result of sudden, violent, and irresistable 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 his or her control and suppress the impulse to kill.

Voluntary manslaughter may be proved as an included offense under an indictment for criminal homicide in the first or second degree.

Voluntary manslaughter is a class C felony.

Sec.___. NEW SECTION. INVOLUNTARY MANSLAUGHTER.

1. A person commits 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.

2. A person commits 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.

Involuntary manslaughter as defined in this section may be proved as an included offense under an indictment for criminal homicide in the first or second degree or voluntary manslaughter."

3. By striking page 14.

4. Page 15 by striking lines 1 through 19.

5. By renumbering the sections and internal references to accord with this amendment.

S-3143 FILED - Ruled out of order 3/20 (419)
FEBRUARY 17, 1975

By PHILIP B. HILL

SENATE FILE 85

S-3148

Amend Senate File 85 as follows:

1. Page 28, line 17, by inserting after the word, "battle" the words "or the theft of a motor vehicle of a value exceeding five thousand dollars;".

2. Page 28, line 23, by striking the words",irrespective of value" and inserting in lieu thereof the words "of a value less than five thousand dollars".

S-3148 FILED - Lost 2/21 (432)
FEBRUARY 17, 1975

BY LEONARD L. ANDERSEN

S-3147

Amend the Judiciary Committee amendment S-3110, to page 13 of Senate File 85 by striking lines 36 through 39 and inserting in lieu thereof the following:

Sec. _____. NEW SECTION HOMICIDE OF FETUS ABORTED ALIVE. A person who intentionally kills a fetus aborted alive after the twentieth week of pregnancy shall be guilty of a class B felony.

S-3147 FILED - adopted 2/21 (p. 427)
FEBRUARY 17, 1975

BY L. KEVIN KELLY

SENATE FILE 85

S-3172

Amend Senate File 85, page 216, line 28, by inserting after the word "division" the following words: ", and the court shall have the additional discretion and power of ordering the director of the division of adult corrections to hold the offender in custody for a minimum period up to but not to exceed one-half of the maximum indeterminate sentence provided for by law for felony convictions."

S-3172 FILED - Ruled out of order 2/26 (479)
FEBRUARY 18, 1975

BY WILLIAM P. WINKELMAN
RICHARD R. RAMSEY
RAY TAYLOR

S-3164

Amend Senate File 85, page 28, by adding the following new subsection after line 7:

"NEW SECTION. Makes any check, draft, or written order on any bank, person or corporation, and obtains property in exchange therefor, if he knows that such check, draft or written order will not be paid when presented. 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."

S-3164 FILED - adopted 2/21 (p. 432)
February 18, 1975

BY NORMAN RODGERS
RICHARD R. RAMSEY

S-3145

Amend Senate File 85 as follows:

1. Page 227, lines 8 and 9, by striking the words "At the discretion of the board, provisions may be made for the temporary maintenance of such person."

2. Page 227, by inserting after line 9 the following sentences:

"No person shall be released on parole until the board of parole shall have satisfactory evidence that arrangements have been made for his employment or maintenance. The chief parole officer may render assistance to prisoners about to be paroled in procuring employment and the necessary expense incident thereto shall be paid as other expenses of the chief parole officer are paid."

S-3145 FILED - Lost 2/18 p. 373
FEBRUARY 17, 1975

By RAY TAYLOR

S

SENATE FILE 85

S-3149

Amend Senate File 85 as follows:

1. Page 85, by striking lines 3 through 6, and inserting in lieu thereof the following:

"The officer may use reasonable force to enter a structure or vehicle to execute a search warrant without notice of his authority and purpose:

1. In the case of vacated or abandoned structures or vehicles.

2. If the issuing magistrate has asserted a direction in the warrant that the officer executing it shall not be required to give such notice. The magistrate may so direct only upon proof under oath that there is probable cause to believe that the property sought may be easily and quickly destroyed, or that danger to the life or limb of the officer may result, if such notice were to be given. A search warrant containing such a direction may only be obtained from a district court judge or district associate judge."

A Lost 2/24 (9-4)

2. Page 105, line 23, by striking the words "With the consent of the defendant and".

3. Page 105, by striking lines 24 through 29, and inserting in lieu thereof the following:

"Upon a showing of good cause, the time limits specified in this paragraph may be extended by the magistrate."

B Adopted 2/24 (452)

4. Page 109, by striking line 10 and inserting in lieu thereof the following:

"juror, if the grounds for challenge which are alleged in the motion of the defendant have not previously been determined pursuant to a challenge asserted by the defendant pursuant to paragraph a or paragraph b of this subsection."

C Adopted 2/24 (452)

5. Page 112, by striking line 26, and inserting in lieu thereof the following:

"be again submitted. Nothing in this paragraph shall be deemed to prohibit the filing of an information pursuant to Rule five (5) of the Iowa Rules of Criminal Procedure after the grand jury refuses to find an indictment."

D Lost 2/24 (452)

6. Page 112, by inserting after line 29, the following:

"The grand jury shall meet regularly at times specified by order of the chief judge. In addition to those times, the grand jury shall meet at the request of the county attorney, and the grand jury shall meet at any other time upon the direction of the foreman."

E Adopted 2/24 (452)

7. Page 122, line 33, by inserting a period following the word "agreement" and by striking the

F Lost 2/24 (452)

words "or another disposition more favorable".

8. Page 122, by striking line 34.

9. Page 128, line 11, by inserting after the words "The court may for" the word "good".

10. Page 128, line 22, by inserting after the words "The court may for" the word "good".

11. Page 130, line 20, by inserting after the word "trial" the words "because that witness might be unavailable at the time of trial".

12. Page 133, line 13, by striking the word "shall" and inserting in lieu thereof the following:

"may, upon a showing that special circumstances exist which require disclosure in order for the defendant to receive a fair trial,".

13. Page 134, by inserting after line 4 the following:

"(4) If disclosure is ordered pursuant to subparagraphs one (1) or two (2) of this paragraph, the court also shall order that the defendant disclose to the attorney for the government any similar information, documents or statements in the possession of the defendant, and that the defendant submit upon the request of the government the names of all witnesses and the substance of their proposed testimony which the defendant expects to present at trial."

14. Page 134, line 8, by inserting before the word "subject" the word "to".

15. Page 134, line 27, by striking the word "may" and insert the word "shall".

16. Page 135, line 2, by striking the word "may" and insert the word "shall".

17. Page 138, line 5, by striking the words "the issuance by".

18. Page 138, line 12, by striking the words "A witness".

19. Page 138, by striking lines 13 through 15.

20. Page 138, line 21, by inserting after the word "trial." the following:

"The court must order that conference if requested by any party."

21. Page 138, by inserting after line 35 the following:

"4. AVOIDANCE OF SURPRISE OF THE PARTIES. At the pretrial conference the defendant or the defendant's attorney shall submit in written form the following information:

a. The names, addresses and the substance of testimony of all witnesses other than the defendant that the defendant expects to call at the trial.

b. Any written documents, recordings, photographs,

or tangible objects which are within the possession, custody or control of the defendant, and which the defendant expects to submit as evidence at trial."

22. Page 139, line 4, by inserting after the word "writing" the words "and unless the state consents to that waiver". R - Last 2/25 (460)

23. Page 145, line 16, by striking the word "strictly" and inserting in lieu thereof the word "generally". S - Withdrawn

24. Page 147, by inserting after line 12 the following:

"The court, upon the request of a party or upon its own motion, shall instruct the jury that a verdict of guilty of an included offense constitutes a verdict of not guilty of the offense charged." T - Withdrawn

25. Page 164, line 7, by inserting after the word "within" the words "a time specified by the court but not exceeding". U - adopt 2/25 (460)

26. Page 165, by inserting after line 10 the following:

"c. The court, upon good cause shown, may waive the presence of the defendant at any proceedings other than the trial." V - Withdrawn

27. Page 165, by inserting after line 29 the following:

"d. The magistrate or judge may cause the courtroom to be cleared of all persons, or any portion thereof, except the parties to the proceeding and their attorneys, when in the opinion of the magistrate or judge it is necessary, in order to preserve the integrity or order of the proceedings." W - adopt 2/25 (460)

28. Page 348, by inserting after line 23 the following: X - Ruled out of order (460)

"Sec. ___. Chapter three hundred thirty-seven (337), Code 1975, is amended by adding the following new section:

NEW SECTION. Any sheriff taking possession of property of any kind, including money, but excluding condemnation funds, shall maintain record of that property in a separate book kept for that purpose. The sheriff shall maintain as part of the record, the following information:

1. The date the sheriff acquired possession of that property.

2. The name of the person from whom the sheriff took possession of the property.

3. A detailed description of that property.

4. A detailed description of any disposition of that property, whether pursuant to court order or otherwise.

The sheriff shall be held strictly accountable for all property in the sheriff's possession, and in any action brought pursuant to chapter six hundred thirteen A (613A) of the Code to recover property or to recover damages for the loss of property which is required by this section to be accounted for by the sheriff, section six hundred thirteen A point five (613A.5) of the Code shall not apply: Provided that the action may not be maintained unless commenced within two years after the date the claim arose.

The sheriff shall maintain reasonable procedures and facilities for protecting property against loss or damage. For purposes of this section a sheriff acquires possession of property when the sheriff or any deputy or employee acquires possession while in the performance of official duties.

This section shall not apply to property other than that obtained pursuant to execution, confiscation, warrant, investigation, or other seizure while in the performance of official duties."

S- 3149 FILED B, C, E, G, H, L, N, O. - adopted
FEBRUARY 17, 1975 A, D, F - lost
I, J, K, M, P, Q - w.d. 2/27 BY RICHARD R. RAMSEY

S-3144

Amend Senate File 85, page 18, line 35, by striking the words "man and wife" and inserting in lieu thereof "husband and wife, or between a husband and wife who are not at the time cohabiting as husband and wife,".

S-3144 FILED AND DEFERRED, adopted 2/25 (p. 461)
FEBRUARY 17, 1975 BY JOHN S. MURRAY
MINNETTE F. DODERER

S-3146

Amend the Judiciary Committee amendment S-3110, to page 13 of Senate File 85 by striking lines 40 through 46 and inserting in lieu thereof the following:

Sec. _____. NEW SECTION DUTY TO PRESERVE THE LIFE OF A FETUS. After the twentieth week of pregnancy, a person who participates in the performance or inducement of a termination of a human pregnancy and who fails to exercise that degree of professional skill, care and diligence available to preserve the life and health of a fetus showing significant, sustainable vital signs shall be guilty of a class C felony.

S-3146 FILED - withdrawn 2/21 (427) BY E. KEVIN KELLY
FEBRUARY 17, 1975

S-3150

Amend the Committee on Judiciary Amendment (S-3119) to Senate File 85 as follows:

1. Page 1, line 12, by striking the word "trial" and inserting in lieu thereof the word "indictment". A

2. Page 1, by striking lines 15 through 36 and inserting in lieu thereof the following:

"2. If a defendant indicted for a public offense is not admitted to bail and not represented by legal counsel, whose trial has not been postponed on his own application, he must be brought to trial within ninety days after indictment is found and the court must order the indictment to be dismissed unless good cause to the contrary be shown.

3. A defendant indicted for a public offense who is not in jail or who is represented by legal counsel must be brought to trial within ninety days after a written demand for speedy trial is served on the prosecuting attorney, and the court must order the indictment dismissed unless good cause to the contrary is shown." B

3. Page 1, after line 36 add the following:

"4. All criminal cases must be brought to trial within one year after the defendant's initial arraignment unless an extension is granted by the court, upon a showing of good cause." C

4. Page 1, line 37, strike the number "4" and insert the number "5". D

5. Page 1, line 42, by striking the number "5" and inserting the number "6".

S-3150 FILED - Adopted 2/18 (p. 368)
FEBRUARY 17, 1975

BY RICHARD R. RAMSEY
ROGER J. SHAFF
ROBERT CARR
WILLIAM E. GLUBA

S-3151

Amend Senate File 85 as follows:

1. Page 21, line 33, by striking the word "second" and inserting in lieu thereof the word "third".

2. Page 21, line 34, by striking the word "second" and inserting in lieu thereof the word "third".

S-3151 FILED - Adopted 2/21 (p. 431)
FEBRUARY 18, 1975

BY PHILIP B. HILL

S-3152

Amend Senate File 85, page 74, by striking lines 6 through 19.

S-3152 FILED - Lost 2/24 (446)
FEBRUARY 18, 1975

BY JAMES M. REDMOND

S-3153

Amend Senate File 85 as follows:

1. Page 60, by inserting after line 27 the following new sections:

"Sec. ____. NEW SECTION. MISTREATMENT OF RESIDENT OF HEALTH CARE FACILITY.

1. A person who willfully, wantonly, maliciously, or recklessly mistreats any resident of a health care facility as defined in chapter one hundred thirty-five C (135C) of the Code commits a class D felony.

2. As used in this section the word "mistreat" means treatment or lack of treatment to such an extent that the physical or mental health of a resident is adversely affected, including but not limited to the following:

a. Failure to follow a physician's orders.

b. Willful or repeated violations of statutes and rules regarding the care of residents of health care facilities.

c. Failure to properly clothe, feed, groom or clean residents.

d. Failure to keep the premises clean.

e. Failure to provide adequate personnel on the staff of the health care facility.

f. Transfer of residents between facilities without the permission of the resident's physician."

S-3153 FILED - Withdrawn 2/25 (462) BY WILLIAM E. GLUBA
FEBRUARY 18, 1975 BERL E. PRIEBE

S-3154

Amend Senate File 85, page 128, by striking lines 25 through 28.

S-3154 FILED - Adopted 2/25 (465)
FEBRUARY 18, 1975 BY JAMES M. REDMOND

S-3157

Amend Senate File 85 as follows:

1. Page 66, by inserting after line 29 the following new section:

"Sec. 205 . NEW SECTION. EXTENSION FOR FRAUD, FIDUCIARY BREACH. If the period prescribed in sections 202, 203 and 204 of this division has 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 legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years."

2. By renumbering the remaining sections in accordance with this amendment.

S-3157 FILED - Adopted 2/24 (445) BY JAMES M. REDMOND
FEBRUARY 18, 1975

S-3156

Amend Senate File 85, page 31, by striking lines 26, 27 and 28.

S-3156 FILED - Adopted 2-24 (444) BY RICHARD R. RAMSEY
FEBRUARY 18, 1975

S-3155

Amend Senate File 85 as follows:

1. Page 6, line 20, by striking the words "or by" and inserting in lieu thereof the word "by". adopted as amended by 3160 2/21 (p. 430)

2. Page 6, line 21, by inserting after the word "genitalia" the words "or by contact between the genitalia of one person and the genitalia of another person". A

3. Page 19, by striking lines 20 through 26 and inserting in lieu thereof the following new section: B

"Sec. 903. NEW SECTION. SEXUAL ABUSE IN THE SECOND DEGREE. A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

1. During the commission of sexual abuse the person displays in a threatening manner a deadly weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.

2. The other participant is under the age of twelve. F. Lost 2/21 (431)

3. The other participant is under the age of sixteen and the person is a member of the same household as the other participant and they are related by blood or affinity to the fourth degree.

4. The person is aided or abetted by one or more persons and the sex act is committed by force and against the will of the other participant. B adopted 2/21 (p. 430)

Sexual abuse in the second degree is a class B felony."

4. Page 20, by striking line 2. C - Withdrawn 2/21 (430)

5. Page 20, by inserting after line 8 the following new section: D Lost ~~adopted~~ as amended by 3159 2/21 (430)

"Sec. 906. NEW SECTION. JURY INSTRUCTION. When instructing the jury in a trial for sexual abuse the judge shall not comment on any possible motivations of the complaining witness in making the charge; the relative ease or difficulty in making the charge; the relative ease or difficulty on proving the charge; or give any instruction which would cause the jury to view the evidence in a case of sexual abuse in a manner different than any other criminal case."

6. By renumbering the remaining sections of Division IX of Chapter 3 in accordance with this amendment. E adopted 2/21 (430)

S-3155 FILED - A, B, C adopted 2/21 (pp 428, 430) BY JAMES M. REDMOND
FEBRUARY 18, 1975

S-3158

Amend Senate File 85 as follows:

1. Page 118, by striking line 28 and inserting in lieu thereof the words "be tried jointly, if in the discretion of the court a joint trial will not result in prejudice to one or more of the parties; otherwise the defendants shall be tried separately."

2. Page 118, line 29, by striking the words "court; where" and inserting in lieu thereof the word "Where".

S-3158 FILED - adopted 2/25 (465) BY JOHN S. MURRAY
FEBRUARY 18, 1975

S-3159

Amend the Redmond amendment, S-3155, to page 6 of Senate File 85, in line 34 by striking the word "on" and inserting in lieu thereof the word "in".

S-3159 FILED - Adopted 2/21 (430) BY JAMES M. REDMOND
FEBRUARY 18, 1975

S-3160

Amend the Redmond amendment, S-3155, to page 6 of Senate File 85 in line 6 by inserting following the word "genitalia" the words "or anus".

S-3160 FILED - Adopted 2/21 (430) BY PHILIP B. HILL
FEBRUARY 18, 1975

S-3161

Amend Senate File 85 as follows:

1. Page 18, line 35, by striking the words "who are not man and wife,".

2. Page 19, by inserting after line 14 the following new subsection:

"5. Sexual abuse as defined in subsections two (2), three (3), and four (4) of this section does not constitute sexual abuse, if the sex act is performed by persons who are husband and wife and who are cohabiting together at the time of the sex act."

S-3161 FILED - Lost 2/21 (p. 433) BY MINNETTE F. DODERER
FEBRUARY 18, 1975 WILLIAM PLYMAT
STEVE SOVERN
EARL WILLITS
JAMES REDMOND
JAMES MURRAY

S-3163

Amend Senate File 85 as follows:

Page 220, line 14 by inserting after the word "dollars" the following: "provided, that in the case of theft in the fourth degree the sentence may include both imprisonment not to exceed thirty days and a fine in an amount not to exceed the greater of one hundred dollars or three times the value of the property stolen".

S-3163 FILED - Lost 2/25 (480) BY NORMAN RODGERS
February 18, 1975

SENATE FILE 85

S-3166

Amend Senate File 85, Page 216, line 20, by inserting after the word "chapter." the following sentence, "Except that in first degree homicide convictions the defendant shall serve at least twelve years of his sentence prior to being paroled."

S-3166 FILED - Lost 2/25 (467) BY WILLIAM P. WINKELMAN
February 18, 1975 RICHARD R. RAMSEY
RAY TAYLOR
CALVIN O. HULTMAN

S-3167

SENATE FILE 85

Amend the Committee on Judiciary amendment S-3120, to page 5 of Senate File 85 as follows:

1. Page 1, line 21, by striking the word and letter "class A" and inserting in lieu thereof the word "capital".

2. Page 1, line 28, by striking the letter "B" and inserting in lieu thereof the letter "A".

3. Page 1, by inserting after line 29 the following new sections:

"Sec. ___. NEW SECTION. ASSAULT WITH INTENT TO CRIMINAL HOMICIDE. If any person assault another with intent to commit murder, such person shall be guilty of a class B felony.

Sec. ___. NEW SECTION. POISIONING FOOD OR DRINK WITH INTENT TO KILL. If any person mingle any poison with any food, drink, or medicine, with intent to kill or injure any human being, or willfully poison any spring, well, cistern, or reservoir of water, such person shall be guilty of a class B felony.

Sec. ___. NEW SECTION. ADVISING OR INCITING CRIMINAL HOMICIDE. Whoever shall within this state advise, counsel, encourage, advocate, or incite the unlawful killing within or without the state of any human being, although no such killing takes place, shall be guilty of a class C felony."

4. Page 1, by inserting after line 32 the following:

__. Page 90, line 34, by inserting after the "comma" the words "unless charged with a capital felony when the proof is evident or the presumption great, and".

__. Page 216, by inserting after line 1 the following new sections:

"Sec. ___. NEW SECTION. CAPITAL FELONY. Any person convicted of a capital felony must be put to death by hanging, unless the only victim or victims of criminal homicide in the first degree, is or are the murderer's spouse, former spouse, mother, father, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepson, stepdaughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, half brother, half sister, aunt, uncle, niece, nephew, first cousin, employer, employee, business partner, fellow worker or associate, and the offense is committed while under the influence of sudden and violent anger caused by an act or acts of any of said persons, in which event such capital offense shall be punished as a class A felony.

Sec. ___. NEW SECTION. TIME OF EXECUTION. When the punishment is fixed as death, the court pronouncing judgment shall fix the day of the execution thereof, which shall not be less than one year after the day on which the judgment is rendered, and not longer than fifteen months, during which time the defendant shall be imprisoned in the penitentiary.

Sec. ___. NEW SECTION. RECORD SENT GOVERNOR. Immediately after entry of judgment of death, the court rendering the same must transmit by mail to the governor a copy of the indictment, plea, verdict, judgment, and testimony in the case.

Sec. ___. NEW SECTION. COPY OF JUDGMENT AUTHORITY FOR EXECUTION. When a judgment of death is pronounced, a certified copy of the entry thereof in the record book must be furnished to the officer whose duty it is to execute the same, who shall proceed accordingly, and no other warrant or authority is necessary to require or justify the execution.

Sec. ___. NEW SECTION. REPRIEVE OR SUSPENSION. The only officers who shall have power to reprieve or suspend the execution of a judgment of death are the governor and, as provided in this chapter, the warden of the penitentiary; except in cases of appeal to the supreme court.

Sec. ___. NEW SECTION. INSANITY OR PREGNANCY. When the warden of the penitentiary is satisfied that there are reasonable grounds for believing that a defendant in the warden's charge under sentence of death is insane or pregnant, the warden shall notify the commissioners of hospitalization of the county wherein the penitentiary is located, who shall be sworn by the warden well and truly to inquire into the facts as to the insanity or pregnancy of the defendant, as the case may be, and return a true report of their findings.

Sec. ___. NEW SECTION. FINDING OF COMMISSIONERS. The commissioners, after being sworn, shall examine the defendant and hear any evidence that may be presented, and may examine the medical attendants at the penitentiary, if necessary, to ascertain the facts, and make report thereon in writing, signed by not less than a majority of them, finding as to the fact of insanity or pregnancy.

Sec. ___. NEW SECTION. EXECUTION SUSPENDED. If the report does not show the defendant to be insane or pregnant, the warden shall not suspend the execution; but if it does, the warden shall suspend the execution, and immediately transmit the report

to the governor.

Sec. ___. NEW SECTION. EXECUTIVE WARRANT OF EXECUTION. When a judgment of death from any cause has not been executed on the day appointed by the court therefor, the governor, by a warrant under the seal of the state, shall fix the day of execution, which warrant shall be obeyed by the sheriff, and no one but the governor can then suspend its execution.

Sec. ___. NEW SECTION. TIME AND MANNER OF EXECUTION. A judgment of death must be executed by the sheriff of the county in which the judgment was rendered, or the deputy sheriff, within the walls of the penitentiary where the defendant is confined, or within a yard or enclosure adjoining thereto, on the day fixed in the judgment, between sunrise and sunset, by hanging by the neck until dead.

Sec. ___. NEW SECTION. WITNESSES TO EXECUTION. The sheriff or the sheriff's deputy must, at least three clear days before executing a judgment of death, notify the judge of the district court who tried the case, or, if the judge be not in office, another judge of such court, the county attorney and the clerk of the district court of the county in which the judgment was rendered, the sheriff of the county in which the offense was committed, if other than that in which judgment was rendered, and two physicians and twelve respectable citizens of the state to be selected by the sheriff to be present as witnesses at such execution. The sheriff must also, at the request of the defendant, permit one or more ministers of the gospel, named by the sheriff, and any of the defendant's relatives, to attend the execution, and also such magistrates, peace officers, and guards as the sheriff shall deem proper, but no minor, and no person other than those herein authorized, shall be present.

Sec. ___. NEW SECTION. CERTIFICATE OF EXECUTION. The sheriff or his deputy executing the judgment of death must prepare and sign with the sheriff's name of office a certificate, setting forth the time and place of the execution, and that judgment was executed upon the defendant according to the foregoing provisions, and cause the certificate to be signed by the public officers, and at least twelve persons, not relations of the defendant, who witnessed the same.

Sec. ___. NEW SECTION. CERTIFICATE FILED AND PUBLISHED. The sheriff or his deputy executing such judgment must cause the certificate to be filed in the office of the clerk of the district court of the

county in which the judgment was rendered, and cause a copy thereof to be published in one newspaper printed at the capital of the state, and in one newspaper in the county where the judgment was entered.

Sec. ___. NEW SECTION. STAY OF EXECUTION OF APPEAL. An appeal from a judgment of death shall stay the infliction of that punishment, but the defendant is to be retained in custody without bail to abide the judgment thereon.

Sec. ___. NEW SECTION. PROCEEDINGS ON APPEAL. When an appeal is taken from a judgment of death, the clerk of the district court in which it was rendered shall at once give the defendant or the defendant's attorney a certificate under the seal of the court, certifying that fact, and the sheriff or other officer having the defendant in custody must, upon the delivery to the sheriff of the certificate, suspend further proceedings on the judgment until final judgment on the appeal is certified to the sheriff by the clerk of the supreme court.

Sec. ___. NEW SECTION. PROCEEDINGS ON AFFIRMANCE--ISSUANCE OF WARRANT. When such judgment is affirmed, the supreme court must cause a copy of its judgment to be delivered to the governor, and to the sheriff whose duty it is to execute such judgment, signed by the clerk thereof and under seal of the court, and the governor shall issue a warrant of execution under the seal of the state, and transmit it by messenger or mail to the sheriff whose duty it is to execute the judgment, directing the sheriff, on a day and at an hour therein named, not earlier than the day fixed by the district court, to execute such judgment in the manner required by law.

Sec. ___. NEW SECTION. EXECUTION OF WARRANT. The sheriff shall execute such warrant in the manner provided in this chapter, and report the sheriff's doings to the governor and the district court whose judgment was appealed from, and make the publication of the sheriff's doings in the manner provided for in this chapter. If from any cause the judgment is not executed on the day named in the warrant, the governor may appoint another, and so on until it is done."

___. Page 216, by striking lines 2 through 20 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. CLASS A FELONY. Upon conviction of a class A felony, the court shall sentence the defendant to the penitentiary for life. Nothing in this chapter pertaining to deferred judgment or sentence, suspended sentence or probation shall apply to a class A felony, and no person con-

victed of a class A felony shall be released on parole unless the governor commutes the sentence to a term of years.

Sec. ___. NEW SECTION. RECORD REVIEWED. At any time after a person has served fifteen years of a life sentence, the board of parole shall interview the person and interview the person's record. If, in the opinion of the board, the person should be considered for release on parole, the board shall recommend to the governor that the person's sentence be commuted to a term of years. If the person's sentence is so commuted, the person shall be eligible for parole as provided in division six (VI) of this chapter."

5. Page 1, by inserting after line 34 the following:

__. Page 15, by striking lines 33 through 35.

__. Page 16, by striking lines 1 through 8.

S-3167 FILED - Log 2/19 (p. 397)
FEBRUARY 18, 1975

BY JAMES W. GRIFFIN, SR.
RAY TAYLOR
DALE L. TIEDEN
JAMES E. BRILES
C. JOSEPH COLEMAN
NORMAN G. RODGERS
CLIFF BURROUGHS
CALVIN O. HULTMAN
W. R. RABEDEAUX
ELIZABETH R. MILLER
IRVIN L. BERGMAN
RICHARD J. NORPEL, SR.
FRED W. NOLTING

SENATE 11

FEBRUARY 18, 1975

SENATE FILE 85

S-3168

Amend Senate File 85, page 159, line 15, by striking the word and figure "twenty-seven (27)" and inserting in lieu thereof the word and figure "twenty-five (25)".

S-3168 FILED - adopted 2/25 (466) BY RICHARD R. RAMSEY
February 18, 1975

SENATE FILE 85

S-3169

Amend Senate File 85, page 8, by striking lines 20 through 27 and inserting in lieu thereof the following:

"2. The conduct or act constituting the offense is committed by an agent, officer or employee of the accused while acting within the scope of his authority 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."

S-3169 FILED - adopted 2-19 (391) BY RICHARD R. RAMSEY
February 18, 1975

SENATE FILE 85

S-3171

Amend the Judiciary amendment, S-3118, to page 318 of Senate File 85, on line 18 by inserting after the word "marijuana" the words "and the amount is one ounce or less".

S-3171 FILED - adopted 2/19 (394) BY EARL WILLITS
February 18, 1975 C. JOSEPH COLEMAN

SENATE FILE 85

S-3173

Amend Senate File 85, page 319, line 8, by inserting after the word "felony" the words ", and shall be punished by imprisonment in the state penitentiary for not to exceed fifty years, or by a fine of not to exceed ten thousand dollars, or both the fine and imprisonment".

S-3173 FILED - Withdrawn 2/26 (481) BY RAY TAYLOR
FEBRUARY 18, 1975

S-3174

Amend the Judiciary Committee amendment S-3120, to page 5 of Senate File 85, as follows:

1. By striking lines 11 through 29 and inserting in lieu thereof the following:

"Sec. __. NEW SECTION. CAPITAL HOMICIDE. A person who with malice aforethought willfully, deliberately, and with premeditation kills another person under one or more of the following circumstances, commits a capital homicide.

1. The killing was perpetrated for valuable consideration.

2. The killing was perpetrated by a person under sentence of life imprisonment.

3. The killing was perpetrated for the purpose of escaping detection, apprehension, trial or punishment for another offense committed by the offender.

4. The killing was perpetrated against another person for the purpose of preventing the other person from testifying against the offender in a criminal trial.

5. The killing is perpetrated as a part of a course of conduct by the defendant involving the purposeful killing of, or attempt to kill two or more persons.

6. The killing was perpetrated while the offender was participating in the crimes of first degree sexual abuse, first degree kidnapping, first degree robbery, first degree burglary or first degree arson.

Sec. __. NEW SECTION. CRIMINAL HOMICIDE IN THE FIRST DEGREE. A person commits criminal homicide in the first degree when he or she kills another person willfully, deliberately and with premeditation.

Criminal homicide in the first degree is a class A felony.

Sec. __. NEW SECTION. CRIMINAL HOMICIDE IN THE SECOND DEGREE. A person commits criminal homicide in the second degree when he or she commits criminal homicide which is not capital homicide or homicide in the first degree.

Criminal homicide in the second degree is a class B felony."

2. Page 1, by inserting after line 32 the following:

__. Page 90, line 34, by inserting after the "comma" the words "unless charged with a capital felony when the proof is evident or the presumption great, and".

__. Page 216, by inserting after line 1 the following new sections:

"Sec. __. NEW SECTION. CAPITAL FELONY. Upon a plea of guilty, a verdict of guilty, or a special

verdict upon which a judgment of conviction of a capital felony may be rendered the court shall enter a judgment and shall commit the defendant to the director of the division of adult corrections for execution of the death penalty. Nothing in this chapter pertaining to deferred judgment, suspended sentence or probation shall apply to a capital felony, and a person convicted of a capital felony shall not be released on parole.

Sec. __. NEW SECTION. TIME OF EXECUTION. When the court directs that a defendant be punished by death, it shall fix the day of the execution, which shall not be less than one year after the day on which the judgment is rendered, and not longer than fifteen months, during which time the defendant shall be imprisoned in the penitentiary.

Sec. __. NEW SECTION. RECORD SENT GOVERNOR. Immediately after entry of judgment of death, the court rendering the judgment shall transmit by mail to the governor a copy of the indictment, plea, verdict, judgment, and testimony in the case.

Sec. __. NEW SECTION. COPY OF JUDGMENT AUTHORITY FOR EXECUTION. When a judgment of death is pronounced, a certified copy of the entry thereof in the record book must be furnished to the officer whose duty it is to execute the same, who shall proceed accordingly, and no other warrant or authority is necessary to require or justify the execution.

Sec. __. NEW SECTION. REPRIEVE OR SUSPENSION. The only officers who shall have power to reprieve or suspend the execution of a judgment of death are the governor and, as provided in this chapter, the warden of the penitentiary, and the supreme court when an appeal is taken.

Sec. __. NEW SECTION. INSANITY OR PREGNANCY. When the warden of the penitentiary has reasonable grounds to believe that a defendant in his charge under sentence of death is insane or pregnant, he shall notify the commissioners of hospitalization of the county where the penitentiary is located, who shall be placed under oath by the warden to inquire into the facts as to the insanity or pregnancy of the defendant, and return a report of their findings.

Sec. __. NEW SECTION. FINDING OF COMMISSIONERS. The commissioners, after being placed under oath, shall examine the defendant and hear any evidence that may be presented, and may examine the medical attendants at the penitentiary, to ascertain the facts, and make a report in writing, signed by a majority of the commissioners.

Sec. __. NEW SECTION. EXECUTION SUSPENDED. If the report does not show the defendant to be insane or pregnant, the warden shall not suspend the execution; but if it does, he shall suspend the execution, and immediately transmit the report to the governor.

Sec. __. NEW SECTION. EXECUTIVE WARRANT OF EXECUTION. When a judgment of death from any cause has not been executed on the day appointed by the court, the governor, by a warrant under the seal of the state, shall fix the day of execution, and the warrant shall be obeyed by the sheriff, and no one but the governor can then suspend its execution.

Sec. __. NEW SECTION. TIME AND MANNER OF EXECUTION. A judgment of death must be executed by the sheriff of the county where the judgment was rendered, or his deputy, within the walls of the penitentiary where the defendant is confined, or within a yard or inclosure adjoining the penitentiary, on the day fixed in the judgment, between sunrise and sunset; by passing an electric current, of sufficent intensity and duration to cause death, through the body of the convicted person.

Sec. __. NEW SECTION. WITNESSES TO EXECUTION. The sheriff or his deputy must, at least three days before executing a judgment of death, notify the judge of the district court who tried the case, or, if he be not in office, another judge of such court, the county attorney and the clerk of the district court of the county in which the judgment was rendered, the sheriff of the county in which the offense was committed, and two physicians and twelve citizens of the state to be selected by him to be present as witnesses at the execution. He must also, at the request of the defendant, permit one or more ministers of the gospel, named by him, and any of his relatives, to attend the execution. Minors and persons not authorized by this section shall not be present at the execution.

Sec. __. NEW SECTION. CERTIFICATE OF EXECUTION. The sheriff or his deputy executing the judgment of death must prepare and sign a certificate, setting forth the time and place of the execution, and that judgment was executed upon the defendant according to the provisions of this chapter, and cause the certificate to be signed by the public officers, and at least twelve persons, who are not relatives of the defendant, who witnessed the execution.

Sec. __. NEW SECTION. CERTIFICATE FILED AND PUBLISHED. The sheriff or his deputy executing the judgment must file the certificate in the office of

the clerk of the district court of the county in which the judgment was rendered, and publish a copy of the certificate in one newspaper printed at the capital of the state, and in one in his county.

Sec. __. NEW SECTION. STAY OF EXECUTION BY APPEAL. An appeal from a judgment of death shall stay the infliction of that punishment, but the defendant is to be retained in custody without bail.

Sec. __. NEW SECTION. PROCEEDINGS ON APPEAL. When an appeal is taken from a judgment of death, the clerk of the district court in which it was rendered shall at once give the defendant or his attorney a certificate, under the seal of the court, certifying that fact, and the sheriff or other officer having the defendant in custody shall, upon the delivery to him of the certificate, suspend further proceedings on the judgment until final judgment on the appeal is certified to him by the clerk of the supreme court.

Sec. __. NEW SECTION. PROCEEDINGS ON AFFIRMANCE--ISSUANCE OF WARRANT. When such judgment is affirmed, the supreme court shall deliver a copy of the judgment to the governor, and to the sheriff whose duty it is to execute the judgment, signed by the clerk of the supreme court and under seal of the court, and the governor shall issue a warrant of execution under the seal of the state, and transmit it by messenger or mail to the sheriff whose duty it is to execute the judgment, directing him, on a day and at an hour, not earlier than the day fixed by the district court, to execute such judgment in the manner required by law.

Sec. __. NEW SECTION. EXECUTION OF WARRANT. The sheriff shall execute such warrant in the manner provided in this chapter, and report the sheriff's doings to the governor and the district court whose judgment was appealed from, and make the publication of the sheriff's doings in the manner provided for in this chapter. If from any cause the judgment is not executed on the day named in the warrant, the governor may appoint another, and so on until it is done."

S-3174 FILED - Withdrawn 2/20 (p. 410)
February 18, 1975

BY RICHARD R. RAMSEY
WILLIAM P. WINKELMAN

S-3175

Amend the Judiciary amendment, S-3110, to page 13 of Senate File 85 by inserting after line 18 the following new paragraph:

"Any person who terminates a human pregnancy who is not a person licensed to practice medicine and surgery under the provisions of chapter one hundred forty-eight (148) of the Code, or an osteopathic physician and surgeon licensed to practice osteopathic medicine and surgery under the provisions of chapter one hundred fifty A (150A) of the Code, commits a class C felony."

S-3175 FILED - adopted 2/21
FEBRUARY 19, 1975

BY MINNETTE F. DODERER

S-3176

Amend Senate File 85, page 26, line 6, by striking the words "felony or theft" and inserting in lieu thereof the words "public offense".

S-3176 FILED - Lost 2/21 (432)
FEBRUARY 19, 1975

BY WILLIAM P. WINKELMAN

S-3177

Amend the Judiciary amendment, S-3120, to page 5 of Senate File 85 by inserting after line 32 the following:

"___. Page 216, by inserting before line 2 the following new sections:

Sec. ____. NEW SECTION. CAPITAL FELONY FOR PERSONS UNDER EIGHTEEN. Notwithstanding any sections of the Code to the contrary, no person who is under eighteen years of age when convicted of a capital felony shall be put to death. If a person is under eighteen years of age when convicted of a capital felony, the offense shall be punished as a class A felony.

Sec. ____. NEW SECTION. TELEVISING OF EXECUTION OF JUDGMENT OF DEATH BY HANGING. All executions of a judgment of death by hanging performed in this state shall be televised by the educational television network in this state, and the educational television network shall make videotapes of the execution. Videotapes of executions shall be made available, at reasonable cost, to any commercial television station, school, church, organization, fraternity, or other group in this state for showing to its viewers, students, or members. Commercial television stations in this state may cover executions performed in this state."

S-3177 FILED - Withdrawn 2-20 (419)
FEBRUARY 19, 1975

BY WILLIAM N. PLYMAT
WILLIAM E. GLUBA

S-3178

Amend Senate File 85, page 143, line 33 by striking the word "not".

S-3178 FILED - adopted 2/25 (466)
FEBRUARY 19, 1975

BY E. KEVIN KELLY

S-3180

Amend the Judiciary amendment S-3110 to page 13 of Senate File 85 by striking lines 40 through 46 and inserting in lieu thereof the following:

"Sec. ____. NEW SECTION. DUTY TO PRESERVE THE LIFE OF THE FETUS. After the twentieth week of pregnancy, a person who performs or induces a termination of a human pregnancy and who fails to exercise that degree of professional skill, care and diligence available to preserve the life and health of a fetus showing significant, sustainable vital signs shall be guilty of a class C felony."

S-3180 FILED - Withdrawn 2/21 (427) BY E. KEVIN KELLY
FEBRUARY 19 1975

SENATE FILE 85

S-3183

Amend Senate File 85 as follows:

1. Page 106, line 27, by striking the words "OR TAPE RECORDER".

2. Page 106, line 29, by striking the words "or recording equipment".

3. Page 106 by striking lines 31 through 35.

4. Page 107 by striking lines 1 and 2.

5. Page 107, line 3, by striking "(2)" and inserting in lieu thereof "(1)".

6. Page 107, line 19, by striking the word and figure "two (2)" and inserting in lieu thereof the word and figure "one (1)".

7. Page 107, line 19, by striking the word "may" and inserting in lieu thereof the word "shall".

8. Page 107, line 20, by striking the words "of a tape of the recorded proceedings or".

S-3183 FILED - Lost 2/25 (465)
FEBRUARY 19, 1975 BY E. KEVIN KELLY

S-3184

Amend Senate File 85 as follows:

1. Page 51, line 24, by inserting after the word "completion" the words "or is a certified peace officer".

2. Page 52, line 29, by inserting after the word "dollars" the words ", except from a duly appointed peace officer,".

S-3184 FILED - Adopted as amended by 3201 2/24 (445) BY E. KEVIN KELLY
FEBRUARY 19, 1975

SENATE FILE 85

S-3186

Amend Senate File 85 as follows:

1. Page 60, by inserting after line 27 the following new sections:

"Sec. ____. NEW SECTION. MISTREATMENT OF RESIDENT OF HEALTH CARE FACILITY.

1. A person who willfully, wantonly, or maliciously mistreats any resident of a health care facility as defined in chapter one hundred thirty-five C (135C) of the Code commits a class D felony.

2. As used in this section the word "mistreat" means treatment or lack of treatment to such an extent that the physical or mental health of a resident is adversely affected, including but not limited to the following:

a. Failure to follow a physician's orders.

b. Willful or repeated violations of statutes and rules regarding the care of residents of health care facilities.

c. Failure to properly clothe, feed, groom or clean residents.

d. Failure to keep the premises clean.

e. Failure to provide adequate personnel on the staff of the health care facility.

f. Transfer of residents between facilities without the permission of the resident's physician.

The provisions of this subsection, including but not limited to paragraphs a through f, must show a willful, wanton, or malicious treatment of residents of a health care facility to such an extent that their physical or mental health is adversely affected."

S-3186 FILED - Lost 2/25 (462)
FEBRUARY 20, 1975

BY WILLIAM E. GLUBA
BERL E. PRIEBE

SENATE FILE 85

S-3189

Amend the Judiciary amendment, S-3110, to page 13 of Senate File 85 by striking lines 40 through 46 and inserting in lieu thereof the following:

"Sec. ____. NEW SECTION. DUTY TO PRESERVE THE LIFE OF THE FETUS. After the twentieth week of pregnancy, a person who performs or induces a termination of a human pregnancy and who fails to exercise that degree of professional skill, care and diligence available to preserve the life and health of a fetus showing significant, sustainable vital signs shall be guilty of a serious misdemeanor."

S-3189 FILED - adopted 2/21 (427)
FEBRUARY 20, 1975

BY E. KEVIN KELLY

S-3209

Amend Senate File 85 as follows:

1. Page 416, by inserting after line 33 the following new sections:

"Sec. ___. Section six hundred seven point two (607.2), subsection two (2), Code 1975, is amended to read as follows:

2. Practicing attorneys~~,-physicians,-licensed-embalmers,-registered-nurses,-chiropractors,-osteopaths,-veterinarians,-registered-pharmacists,-dentists,-and-clergymen,-including-Christian-Science-practitioners-and-readers~~.

Sec. ___. Section six hundred seven point two (607.2), Code 1975, is amended by striking subsections three (3), four (4), five (5), and six (6)."

S-3209 FILED - adopted 2/26 (480) BY MINNETTE F. DODERER
FEBRUARY 25, 1975

S-3211

Amend Senate File 85, page 424, by striking from line 22 the words and numbers "seven hundred five (705),"

S-3211 FILED - Lost 2/26 (481) BY EUGENE M. HILL
FEBRUARY 25, 1975

S-3212

Amend Senate File 85, page 57, by striking lines 25 through 29.

S-3212 FILED AND ADOPTED (461) BY ELIZABETH SHAW
FEBRUARY 25, 1975

S-3213

Amend the Taylor amendment S-3206 to page 63 of Senate File 85 by striking lines 8 through 15 and inserting in lieu thereof the following:

"Sec. 2809. NEW SECTION. COUNTY AND MUNICIPAL ORDINANCES. County and municipal governmental units are authorized to enact ordinances in conformity with the provisions of this division applicable to the sale, gift, delivery or exhibition of obscene materials to persons 18 years of age and older.

S-3213 FILED AND WITHDRAWN (463) BY ROBERT M. CARR
FEBRUARY 25, 1975

S-3179

Amend Senate File 85 as follows:

1. Page 57, line 24, by inserting after the period the following new sentence:

"A parent or adoptive parent who provides his or her child exclusively with nonmedical treatment by a religious method of healing permitted under the laws of this state shall not, for this reason alone, be considered in violation of this subsection."

S-3179 FILED - adopted 2/25 (461) BY ELIZABETH SHAW
FEBRUARY 19, 1975

SENATE 5
FEBRUARY 21, 1975

S-3190

SENATE FILE 85

Amend the Judiciary Committee amendment S-3120, to page 5 of Senate File 85, as follows:

1. By striking lines 11 through 29 and inserting in lieu thereof the following:

"Sec. __. NEW SECTION. CAPITAL HOMICIDE. A person who with malice aforethought willfully, deliberately, and with premeditation kills another person under one or more of the following circumstances, commits a capital homicide.

1. The killing was perpetrated for hire.

2. The killing was perpetrated by a person under sentence of life imprisonment.

3. The killing was perpetrated for the purpose of escaping detection, apprehension, trial or punishment for another offense committed by the offender.

4. The killing was perpetrated against another person for the purpose of preventing the other person from testifying against the offender in a criminal trial.

5. The killing is perpetrated as a part of a course of conduct by the defendant involving the purposeful killing of, or attempt to kill two or more persons.

6. The killing was perpetrated while the offender was participating in the crimes of first degree sexual abuse, first degree kidnapping, first degree robbery, first degree burglary or first degree arson.

Sec. __. NEW SECTION. APPEAL OF CONVICTION OF CAPITAL HOMICIDE. When reviewing a judgment and sentence of death the supreme court shall in the first instance determine whether errors of law occurring at the trial require reversal or modification of the judgment. Upon determining that errors of law did not occur at the trial which require reversal or modification the supreme court shall set a date for an evidentiary hearing for the purpose of determining if the death sentence comports with the principles of due process and equal protection of the law. At the hearing the supreme court shall determine whether the sentence of death was arbitrarily imposed or the result of discrimination based on race, creed, economic condition, social position, class, or sex of the defendant and shall specifically determine whether the sentence of death is substantially disproportionate to the penalty imposed in similar cases.

Sec. __. NEW SECTION. CRIMINAL HOMICIDE IN THE FIRST DEGREE. A person commits criminal homicide in the first degree when he or she willfully, deliberately and with premeditation commits criminal homicide which is not a capital homicide.

Criminal homicide in the first degree is a class A felony.

Sec. __. NEW SECTION. CRIMINAL HOMICIDE IN THE SECOND DEGREE. A person commits criminal homicide in the second degree when he or she commits criminal homicide which is not capital homicide or homicide in the first degree.

Criminal homicide in the second degree is a class B felony."

2. Page 1, by inserting after line 32 the following:

__. Page 90, line 34, by inserting after the "comma" the words "unless charged with a capital felony when the proof is evident or the presumption great, and".

__. Page 216, by inserting after line 1 the following new sections:

"Sec. __. NEW SECTION. CAPITAL FELONY. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a capital felony may be rendered the court shall enter a judgment and shall commit the defendant to the director of the division of adult corrections for execution of the death penalty. Nothing in this chapter pertaining to deferred judgment, suspended sentence or probation shall apply to a capital felony, and a person convicted of a capital felony shall not be released on parole.

Sec. __. NEW SECTION. TIME OF EXECUTION. When the court directs that a defendant be punished by death, it shall fix the day of the execution, which shall not be less than one year after the day on which the judgment is rendered, and not longer than fifteen months, during which time the defendant shall be imprisoned in the penitentiary.

Sec. __. NEW SECTION. RECORD SENT GOVERNOR. Immediately after entry of judgment of death, the court rendering the judgment shall transmit by mail to the governor a copy of the indictment, plea, verdict, judgment, and testimony in the case.

Sec. __. NEW SECTION. COPY OF JUDGMENT AUTHORITY FOR EXECUTION. When a judgment of death is pronounced, a certified copy of the entry thereof in the record book must be furnished to the officer whose duty it is to execute the same, who shall proceed accordingly, and no other warrant or authority is necessary to require or justify the execution.

Sec. __. NEW SECTION. REPRIEVE OR SUSPENSION. The only officers who shall have power to reprieve or suspend the execution of a judgment of death are the governor and, as provided in this chapter, the warden

of the penitentiary, and the supreme court when an appeal is taken.

Sec. __. NEW SECTION. INSANITY OR PREGNANCY. When the warden of the penitentiary has reasonable grounds to believe that a defendant in his charge under sentence of death is insane or pregnant, he shall notify the commissioners of hospitalization of the county where the penitentiary is located, who shall be placed under oath by the warden to inquire into the facts as to the insanity or pregnancy of the defendant, and return a report of their findings.

Sec. __. NEW SECTION. FINDING OF COMMISSIONERS. The commissioners, after being placed under oath, shall examine the defendant and hear any evidence that may be presented, and may examine the medical attendants at the penitentiary, to ascertain the facts, and make a report in writing, signed by a majority of the commissioners.

Sec. __. NEW SECTION. EXECUTION SUSPENDED. If the report does not show the defendant to be insane or pregnant, the warden shall not suspend the execution; but if it does, he shall suspend the execution, and immediately transmit the report to the governor.

Sec. __. NEW SECTION. EXECUTIVE WARRANT OF EXECUTION. When a judgment of death from any cause has not been executed on the day appointed by the court, the governor, by a warrant under the seal of the state, shall fix the day of execution, and the warrant shall be obeyed by the sheriff, and no one but the governor can then suspend its execution.

Sec. __. NEW SECTION. TIME AND MANNER OF EXECUTION. A judgment of death must be executed by the sheriff of the county where the judgment was rendered, or his deputy, within the walls of the penitentiary where the defendant is confined, or within a yard or inclosure adjoining the penitentiary, on the day fixed in the judgment, between sunrise and sunset; by passing an electric current, of sufficent intensity and duration to cause death, through the body of the convicted person.

Sec. __. NEW SECTION. WITNESSES TO EXECUTION. The sheriff or his deputy must, at least three days before executing a judgment of death, notify the judge of the district court who tried the case, or, if he be not in office, another judge of such court, the county attorney and the clerk of the district court of the county in which the judgment was rendered, the sheriff of the county in which the offense was committed, and two physicians and twelve citizens of the state to be selected by him to be

present as witnesses at the execution. He must also, at the request of the defendant, permit one or more ministers of the gospel, named by him, and any of his relatives, to attend the execution. Minors and persons not authorized by this section shall not be present at the execution.

Sec. __. NEW SECTION. CERTIFICATE OF EXECUTION. The sheriff or his deputy executing the judgment of death must prepare and sign a certificate, setting forth the time and place of the execution, and that judgment was executed upon the defendant according to the provisions of this chapter, and cause the certificate to be signed by the public officers, and at least twelve persons, who are not relatives of the defendant, who witnessed the execution.

Sec. __. NEW SECTION. CERTIFICATE FILED AND PUBLISHED. The sheriff or his deputy executing the judgment must file the certificate in the office of the clerk of the district court of the county in which the judgment was rendered, and publish a copy of the certificate in one newspaper printed at the capital of the state, and in one in his county.

Sec. __. NEW SECTION. STAY OF EXECUTION BY APPEAL. An appeal from a judgment of death shall stay the infliction of that punishment, but the defendant is to be retained in custody without bail.

Sec. __. NEW SECTION. PROCEEDINGS ON APPEAL. When an appeal is taken from a judgment of death, the clerk of the district court in which it was rendered shall at once give the defendant or his attorney a certificate, under the seal of the court, certifying that fact, and the sheriff or other officer having the defendant in custody shall, upon the delivery to him of the certificate, suspend further proceedings on the judgment until final judgment on the appeal is certified to him by the clerk of the supreme court.

Sec. __. NEW SECTION. PROCEEDINGS ON AFFIRMANCE--ISSUANCE OF WARRANT. When such judgment is affirmed, the supreme court shall deliver a copy of the judgment to the governor, and to the sheriff whose duty it is to execute the judgment, signed by the clerk of the supreme court and under seal of the court, and the governor shall issue a warrant of execution under the seal of the state, and transmit it by messenger or mail to the sheriff whose duty it is to execute the judgment, directing him, on a day and at an hour, not earlier than the day fixed by the district court, to execute such judgment in the manner required by law.

Sec. __. NEW SECTION. EXECUTION OF WARRANT. The sheriff shall execute such warrant in the manner provided in this chapter, and report the sheriff's doings to the governor and the district court whose judgment was appealed from, and make the publication of the sheriff's doings in the manner provided for in this chapter. If from any cause the judgment is not executed on the day named in the warrant, the governor may appoint another, and so on until it is done."

S-3191

SENATE FILE 85

Amend the Judiciary Committee amendment S-3120, to page 5 of Senate File 85, as follows:

1. By striking lines 11 through 29 and inserting in lieu thereof the following:

"Sec. __. NEW SECTION. CAPITAL HOMICIDE. A person who with malice aforethought willfully, deliberately, and with premeditation kills another person under one or more of the following circumstances, commits a capital homicide.

1. The killing is perpetrated while the offender is participating in sexual abuse in the first degree with a person under the age of sixteen.

2. The killing is perpetrated while the offender is participating in kidnapping in the first degree.

Sec. __. NEW SECTION. APPEAL OF CONVICTION OF CAPITAL HOMICIDE. When reviewing a judgment and sentence of death the supreme court shall in the first instance determine whether errors of law occurring at the trial require reversal or modification of the judgment. Upon determining that errors of law did not occur at the trial which require reversal or modification the supreme court shall set a date for an evidentiary hearing for the purpose of determining if the death sentence comports with the principles of due process and equal protection of the law. At the hearing the supreme court shall determine whether the sentence of death was arbitrarily imposed or the result of discrimination based on race, creed, economic condition, social position, class, or sex of the defendant and shall specifically determine whether the sentence of death is substantially disproportionate to the penalty imposed in similar cases.

Sec. __. NEW SECTION. CRIMINAL HOMICIDE IN THE FIRST DEGREE. A person commits criminal homicide in the first degree when he or she willfully, deliberately and with premeditation commits criminal homicide which is not a capital homicide.

Criminal homicide in the first degree is a class A felony.

Sec. __. NEW SECTION. CRIMINAL HOMICIDE IN THE SECOND DEGREE. A person commits criminal homicide in the second degree when he or she commits criminal homicide which is not capital homicide or homicide in the first degree.

Criminal homicide in the second degree is a class B felony."

2. Page 1, by inserting after line 32 the following:

". __. Page 90, line 34, by inserting after the "comma" the words "unless charged with a capital felony when

the proof is evident or the presumption great, and".

__. Page 216, by inserting after line 1 the following new sections:

"Sec. __. NEW SECTION. CAPITAL FELONY. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a capital felony may be rendered the court shall enter a judgment and shall commit the defendant to the director of the division of adult corrections for execution of the death penalty. Nothing in this chapter pertaining to deferred judgment, suspended sentence or probation shall apply to a capital felony, and a person convicted of a capital felony shall not be released on parole.

Sec. __. NEW SECTION. TIME OF EXECUTION. When the court directs that a defendant be punished by death, it shall fix the day of the execution, which shall not be less than one year after the day on which the judgment is rendered, and not longer than fifteen months, during which time the defendant shall be imprisoned in the penitentiary.

Sec. __. NEW SECTION. RECORD SENT GOVERNOR. Immediately after entry of judgment of death, the court rendering the judgment shall transmit by mail to the governor a copy of the indictment, plea, verdict, judgment, and testimony in the case.

Sec. __. NEW SECTION. COPY OF JUDGMENT AUTHORITY FOR EXECUTION. When a judgment of death is pronounced, a certified copy of the entry thereof in the record book must be furnished to the officer whose duty it is to execute the same, who shall proceed accordingly, and no other warrant or authority is necessary to require or justify the execution.

Sec. __. NEW SECTION. REPRIEVE OR SUSPENSION. The only officers who shall have power to reprieve or suspend the execution of a judgment of death are the governor and, as provided in this chapter, the warden of the penitentiary, and the supreme court when an appeal is taken.

Sec. __. NEW SECTION. INSANITY OR PREGNANCY. When the warden of the penitentiary has reasonable grounds to believe that a defendant in his charge under sentence of death is insane or pregnant, he shall notify the commissioners of hospitalization of the county where the penitentiary is located, who shall be placed under oath by the warden to inquire into the facts as to the insanity or pregnancy of the defendant, and return a report of their findings.

Sec. __. NEW SECTION. FINDING OF COMMISSIONERS. The commissioners, after being placed under oath,

shall examine the defendant and hear any evidence that may be presented, and may examine the medical attendants at the penitentiary, to ascertain the facts, and make a report in writing, signed by a majority of the commissioners.

Sec. __. NEW SECTION. EXECUTION SUSPENDED. If the report does not show the defendant to be insane or pregnant, the warden shall not suspend the execution; but if it does, he shall suspend the execution, and immediately transmit the report to the governor.

Sec. __. NEW SECTION. EXECUTIVE WARRANT OF EXECUTION. When a judgment of death from any cause has not been executed on the day appointed by the court, the governor, by a warrant under the seal of the state, shall fix the day of execution, and the warrant shall be obeyed by the sheriff, and no one but the governor can then suspend its execution.

Sec. __. NEW SECTION. TIME AND MANNER OF EXECUTION. A judgment of death must be executed by the sheriff of the county where the judgment was rendered, or his deputy, within the walls of the penitentiary where the defendant is confined, or within a yard or inclosure adjoining the penitentiary, on the day fixed in the judgment, between sunrise and sunset; by passing an electric current, of sufficent intensity and duration to cause death, through the body of the convicted person.

Sec. __. NEW SECTION. WITNESSES TO EXECUTION. The sheriff or his deputy must, at least three days before executing a judgment of death, notify the judge of the district court who tried the case, or, if he be not in office, another judge of such court, the county attorney and the clerk of the district court of the county in which the judgment was rendered, the sheriff of the county in which the offense was committed, and two physicians and twelve citizens of the state to be selected by him to be present as witnesses at the execution. He must also, at the request of the defendant, permit one or more ministers of the gospel, named by him, and any of his relatives, to attend the execution. Minors and persons not authorized by this section shall not be present at the execution.

Sec. __. NEW SECTION. CERTIFICATE OF EXECUTION. The sheriff or his deputy executing the judgment of death must prepare and sign a certificate, setting forth the time and place of the execution, and that judgment was executed upon the defendant according to the provisions of this chapter, and cause the certificate to be signed by the public officers, and at

least twelve persons, who are not relatives of the defendant, who witnessed the execution.

Sec. __. NEW SECTION. CERTIFICATE FILED AND PUBLISHED. The sheriff or his deputy executing the judgment must file the certificate in the office of the clerk of the district court of the county in which the judgment was rendered, and publish a copy of the certificate in one newspaper printed at the capital of the state, and in one in his county.

Sec. __. NEW SECTION. STAY OF EXECUTION BY APPEAL. An appeal from a judgment of death shall stay the infliction of that punishment, but the defendant is to be retained in custody without bail.

Sec. __. NEW SECTION. PROCEEDINGS ON APPEAL. When an appeal is taken from a judgment of death, the clerk of the district court in which it was rendered shall at once give the defendant or his attorney a certificate, under the seal of the court, certifying that fact, and the sheriff or other officer having the defendant in custody shall, upon the delivery to him of the certificate, suspend further proceedings on the judgment until final judgment on the appeal is certified to him by the clerk of the supreme court.

Sec. __. NEW SECTION. PROCEEDINGS ON AFFIRMANCE--ISSUANCE OF WARRANT. When such judgment is affirmed, the supreme court shall deliver a copy of the judgment to the governor, and to the sheriff whose duty it is to execute the judgment, signed by the clerk of the supreme court and under seal of the court, and the governor shall issue a warrant of execution under the seal of the state, and transmit it by messenger or mail to the sheriff whose duty it is to execute the judgment, directing him, on a day and at an hour, not earlier than the day fixed by the district court, to execute such judgment in the manner required by law.

Sec. __. NEW SECTION. EXECUTION OF WARRANT. The sheriff shall execute such warrant in the manner provided in this chapter, and report the sheriff's doings to the governor and the district court whose judgment was appealed from, and make the publication of the sheriff's doings in the manner provided for in this chapter. If from any cause the judgment is not executed on the day named in the warrant, the governor may appoint another, and so on until it is done."

S-3204

Amend Senate File 85, page 215, by inserting after line 28 the following new paragraph:

"The department of social services shall confine the defendant at whichever institution is appropriate among the institutions numbered 8, 9, 12, 13, 14, 15, 16, 17 or 18 of section two hundred eighteen point one (218.1) of the Code. The department of social services shall neither close nor discontinue the operation of the institutions numbered 8, 9, 12, 13, 14 and 15 of section two hundred eighteen point one (218.1) of the Code unless the closing or discontinuation is specifically authorized by law."

S-3204 FILED - Ruled not germane 2/25 (466) BY WILLIAM P. WINKELMAN
FEBRUARY 24, 1975

S-3194

Amend the Taylor amendment S-3173, to page 319 of Senate File 85 as follows:

1. Line 1 by striking the words ", page 319, line 8, by inserting" and inserting in lieu thereof the words "as follows:".

2. By striking lines 2 through 5 and inserting in lieu thereof the following:

"1. Page 319, line 8, by inserting after the word "felony" the words ", and shall be punished by imprisonment in the state penitentiary for an indeterminent term of not less than twenty-five years nor more than fifty years".

"2. Page 216, line 28, by inserting after the word "division." the following sentence: "Where a statute provides for a minimum term of imprisonment for a specified offense, an indeterminent term shall mean a term not less than the minimum term prescribed and not greater than the maximum term fixed by law for that offense, and the court must impose an indeterminent sentence containing the prescribed minimum term."

"3. Page 217, by inserting after line 8 the following new paragraph:

"This section shall be inapplicable where the felony of which the person was convicted is punishable by a minimum term of imprisonment."

"4. Page 225, line 21, by inserting after the word "Felon" the words ", or a person committed under a sentence imposing a minimum term of imprisonment,".

"5. Page 225, line 22, by inserting after the the word "him." the following sentence: "In the case of a person committed under a sentence imposing a minimum term of imprisonment, a member of the board shall interview the person within one year after the person has been confined for that minimum term.

"6. Page 229, line 20, by inserting after the word "Felony" the following words: ", the commission of any offense for which a minimum term of imprisonment is specified,"."

S-3194 FILED (3173 w.d.) RAY TAYLOR
FEBRUARY 21, 1975

Amend the Judiciary Committee amendment S-3120, to page 5 of the Senate File 85, as follows:

1. By striking lines 11 through 29 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. CAPITAL HOMICIDE. A person who with malice aforethought willfully, deliberately, and with premeditation kills another person while the offender is participating in kidnapping in the first degree commits a capital homicide.

Sec. ___. NEW SECTION. APPEAL OF CONVICTION OF CAPITAL HOMICIDE. When reviewing a judgment and sentence of death the supreme court shall in the first instance determine whether errors of law occurring at the trial require reversal or modification of the judgment. Upon determining that errors of law did not occur at the trial which require reversal or modification the supreme court shall set a date for an evidentiary hearing for the purpose of determining if the death sentence comports with the principles of due process and equal protection of the law. At the hearing the supreme court shall determine whether the sentence of death was arbitrarily imposed or the result of discrimination based on race, creed, economic condition, social position, class, or sex of the defendant and shall specifically determine whether the sentence of death is substantially disproportionate to the penalty imposed in similar cases.

Sec. ___. NEW SECTION. CRIMINAL HOMICIDE IN THE FIRST DEGREE. A person commits criminal homicide in the first degree when he or she willfully, deliberately and with premeditation commits criminal homicide which is not a capital homicide.

Criminal homicide in the first degree is a class A felony.

Sec. ___. NEW SECTION. CRIMINAL HOMICIDE IN THE SECOND DEGREE. A person commits criminal homicide in the second degree when he or she commits criminal homicide which is not capital homicide or homicide in the first degree.

Criminal homicide in the second degree is a class B felony."

2. Page 1, by inserting after line 32 the following:

__. Page 90, line 34, by inserting after the "comma" the words "unless charged with a capital felony when

the proof is evident or the presumption great, and".

__. Page 216, by inserting after line 1 the following new sections:

"Sec. __. NEW SECTION. CAPITAL FELONY. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a capital felony may be rendered the court shall enter a judgment and shall commit the defendant to the director of the division of adult corrections for execution of the death penalty. Nothing in this chapter pertaining to deferred judgment, suspended sentence or probation shall apply to a capital felony, and a person convicted of a capital felony shall not be released on parole.

Sec. __. NEW SECTION. TIME OF EXECUTION. When the court directs that a defendant be punished by death, it shall fix the day of the execution, which shall not be less than one year after the day on which the judgment is rendered, and not longer than fifteen months, during which time the defendant shall be imprisoned in the penitentiary.

Sec. __. NEW SECTION. RECORD SENT GOVERNOR. Immediately after entry of judgment of death, the court rendering the judgment shall transmit by mail to the governor a copy of the indictment, plea, verdict, judgment, and testimony in the case.

Sec. __. NEW SECTION. COPY OF JUDGMENT AUTHORITY FOR EXECUTION. When a judgment of death is pronounced, a certified copy of the entry thereof in the record book must be furnished to the officer whose duty it is to execute the same, who shall proceed accordingly, and no other warrant or authority is necessary to require or justify the execution.

Sec. __. NEW SECTION. REPRIEVE OR SUSPENSION. The only officers who shall have power to reprieve or suspend the execution of a judgment of death are the governor and, as provided in this chapter, the warden of the penitentiary, and the supreme court when an appeal is taken.

Sec. __. NEW SECTION. INSANITY OR PREGNANCY. When the warden of the penitentiary has reasonable grounds to believe that a defendant in his charge under sentence of death is insane or pregnant, he shall notify the commissioners of hospitalization of the county where the penitentiary is located, who shall be placed under oath by the warden to inquire into the facts as to the insanity or pregnancy of the defendant, and return a report of their findings.

Sec. __. NEW SECTION. FINDING OF COMMISSIONERS. The commissioners, after being placed under oath,

shall examine the defendant and hear any evidence that may be presented, and may examine the medical attendants at the penitentiary, to ascertain the facts, and make a report in writing, signed by a majority of the commissioners.

Sec. __. NEW SECTION. EXECUTION SUSPENDED. If the report does not show the defendant to be insane or pregnant, the warden shall not suspend the execution; but if it does, he shall suspend the execution, and immediately transmit the report to the governor.

Sec. __. NEW SECTION. EXECUTIVE WARRANT OF EXECUTION. When a judgment of death from any cause has not been executed on the day appointed by the court, the governor, by a warrant under the seal of the state, shall fix the day of execution, and the warrant shall be obeyed by the sheriff, and no one but the governor can then suspend its execution.

Sec. __. NEW SECTION. TIME AND MANNER OF EXECUTION. A judgment of death must be executed by the sheriff of the county where the judgment was rendered, or his deputy, within the walls of the penitentiary where the defendant is confined, or within a yard or inclosure adjoining the penitentiary, on the day fixed in the judgment, between sunrise and sunset; by passing an electric current, of sufficent intensity and duration to cause death, through the body of the convicted person.

Sec. __. NEW SECTION. WITNESSES TO EXECUTION. The sheriff or his deputy must, at least three days before executing a judgment of death, notify the judge of the district court who tried the case, or, if he be not in office, another judge of such court, the county attorney and the clerk of the district court of the county in which the judgment was rendered, the sheriff of the county in which the offense was committed, and two physicians and twelve citizens of the state to be selected by him to be present as witnesses at the execution. He must also, at the request of the defendant, permit one or more ministers of the gospel, named by him, and any of his relatives, to attend the execution. Minors and persons not authorized by this section shall not be present at the execution.

Sec. __. NEW SECTION. CERTIFICATE OF EXECUTION. The sheriff or his deputy executing the judgment of death must prepare and sign a certificate, setting forth the time and place of the execution, and that judgment was executed upon the defendant according to the provisions of this chapter, and cause the certificate to be signed by the public officers, and at

least twelve persons, who are not relatives of the defendant, who witnessed the execution.

Sec. ___. NEW SECTION. CERTIFICATE FILED AND PUBLISHED. The sheriff or his deputy executing the judgment must file the certificate in the office of the clerk of the district court of the county in which the judgment was rendered, and publish a copy of the certificate in one newspaper printed at the capital of the state, and in one in his county.

Sec. ___. NEW SECTION. STAY OF EXECUTION BY APPEAL. An appeal from a judgment of death shall stay the infliction of that punishment, but the defendant is to be retained in custody without bail.

Sec. ___. NEW SECTION. PROCEEDINGS ON APPEAL. When an appeal is taken from a judgment of death, the clerk of the district court in which it was rendered shall at once give the defendant or his attorney a certificate, under the seal of the court, certifying that fact, and the sheriff or other officer having the defendant in custody shall, upon the delivery to him of the certificate, suspend further proceedings on the judgment until final judgment on the appeal is certified to him by the clerk of the supreme court.

Sec. ___. NEW SECTION. PROCEEDINGS ON AFFIRMANCE-ISSUANCE OF WARRANT. When such judgment is affirmed, the supreme court shall deliver a copy of the judgment to the governor, and to the sheriff whose duty it is to execute the judgment, signed by the clerk of the supreme court and under seal of the court, and the governor shall issue a warrant of execution under the seal of the state, and transmit it by messenger or mail to the sheriff whose duty it is to execute the judgment, directing him, on a day and at an hour, not earlier than the day fixed by the district court, to execute such judgment in the manner required by law.

Sec. ___. NEW SECTION. EXECUTION OF WARRANT. The sheriff shall execute such warrant in the manner provided in this chapter, and report the sheriff's doings to the governor and the district court whose judgment was appealed from, and make the publication of the sheriff's doings in the manner provided for in this chapter. If from any cause the judgment is not executed on the day named in the warrant, the governor may appoint another, and so on until it is done."

S-3193 FILED AND LOST
FEBRUARY 20, 1975

BY C. JOSEPH COLEMAN
LOWELL L. JUNKINS

S-3195

Amend the Judiciary amendment S-3110 to page 13 of Senate File 85 by striking on lines 8 and 9 the words "after the end of the second trimester of the pregnancy".

S-3195 FILED AND WITHDRAWN BY RAY TAYLOR
FEBRUARY 21, 1975

S-3199

Amend Senate File 85 as follows:

1. Page 74, line 9, by inserting after "rant" the words "for a forcible felony".

2. Page 74, line 10, by striking the words "public offense" and inserting in lieu thereof the words "forcible felony".

3. Page 74, line 18, by inserting after the word "officer" the words "other person".

S-3199A LO

S-3199B
FILED AND

S-3199 FILED BY JAMES M. REDMOND
FEBRUARY 24, 1975

S-3199A LOST. S-3199B ADOPTED

S-3200

Amend the Redmond amendment S-3199 to page 74 of Senate File 85, in line 8 by inserting before the word "other" the word "or".

S-3200 FILED AND ADOPTED BY JAMES M. REDMOND
FEBRUARY 24, 1975

S-3201

Amend the Kelly amendment S-3184 to page 51 of Senate File 85 by inserting after line 7 the following:

"3. Page 51, line 25, by inserting after the word "officer" the words ", except a certified peace officer,".

S-3201 FILED AND ADOPTED BY E. KEVIN KELLY
FEBRUARY 24, 1975

S-3202

Amend Senate File 85 as follows:

1. Page 61, line 1, by striking the words "with respect to what is suitable material".

2. Page 61, line 2, by striking the words "for minors,".

3. Page 63, by striking lines 24 through 35.

S-3202 FILED - Withdrawn 2/25(464) BY RAY TAYLOR
FEBRUARY 24, 1975

S-3203

SENATE FILE 85

Amend Senate File 85, page 74, line 8, by inserting after the word "officer" the words "is in uniform and".

S-3203 FILED AND ADOPTED BY JOHN S. MURRAY
FEBRUARY 24, 1975 EARL WILLITS

SENATE FILE 85

S-3205

Amend Senate File 85 as follows:

1. Page 216, line 28, by inserting after the word "division" the words "nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided".

2. Page 216, line 31, by inserting after the word "felony" the words "or a felony for which a minimum sentence of confinement is imposed".

3. Page 217, by inserting after line 20 the following new section:

"Sec. ___. NEW SECTION. MINIMUM SENTENCE--USE OF FIREARM. A person who represents that he or she is in immediate possession and control of a firearm, displays a firearm in a threatening manner, or who is armed with a firearm while participating in a forcible felony shall, upon conviction, serve a minimum of five years of the sentence of confinement imposed by law. A person sentenced pursuant to the provisions of this section shall not be eligible for parole until he or she has served the minimum sentence of confinement as imposed by this section."

4. By renumbering the sections and internal references to accord with this amendment.

S-3205 FILED - adopted as amended by 3225 2/26(478) BY LOWELL E. JUNKINS
FEBRUARY 24, 1975 EUGENE M. HILL
CLIFTON C. LAMBORN
FORREST V. SCHWENGELS

Amend Senate File 85 as follows:

1. Page 61, line 1, by striking the words "with respect to what is suitable material".

2. Page 61, line 2, by striking the words "for minors,".

3. Page 63, by striking lines 24 through 35 and inserting in lieu thereof the following:

"Sec. 2809. NEW SECTION. LOCAL ORDINANCES OR REGULATION. A political subdivision of this state may adopt an ordinance, resolution, or regulation providing for the regulation of obscene material if the ordinance, resolution, or regulation is consistent with the provisions of this division, however the ordinance, resolution, or regulation may govern the dissemination or use of obscene material by adults."

S-3206 FILED AND LOST (464) BY RAY TAYLOR
FEBRUARY 25, 1975

SENATE FILE 85

S-3210

Amend Senate File 85, page 424, by striking from lines 20 and 21 the words and numbers "seven hundred two (702),".

S-3210 FILED - Lost 2/26(481) BY EUGENE M. HILL
FEBRUARY 25, 1975

Amend Senate File 85 as follows: A - Lost 2/27 (499

1. Page 49, lines 15 and 16, by striking the words "or who knowingly carries or transports in a vehicle a pistol or revolver,".

2. Page 49, by striking lines 28 through 33, and inserting in lieu thereof the following: B - adopted 2/27 (499

"__. Any person who for any lawful purpose carries an unloaded pistol, revolver, or other dangerous weapon inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person."

3. Page 50, line 3, by inserting after the word "vehicle" the words "or common carrier".

4. Page 50, by striking lines 4 through 7 and inserting in lieu thereof the following: C - adopted 2/27 (499, Reconsidered and withdrawn 2/27 (503

"__. Any person while lawfully engaged in transporting or using dangerous weapons for target practice, hunting, display, sale, trade, repair, or modification."

5. Page 50, line 20, by inserting before the word "PERMITS" the word "PROFESSIONAL". D - adopted 2/27 (50

6. Page 51, line 1, by striking the word "TEMPORARY" and inserting in lieu thereof the word "NONPROFESSIONAL".

7. Page 51, line 3, by striking the word "temporary" and inserting in lieu thereof the word "nonprofessional".

8. Page 51, line 6, by striking the word "annual" and inserting in lieu thereof the word "professional".

9. Page 51, line 11, by striking the word "six" and inserting in lieu thereof the word "twelve". E - adopted 2/27 (500

10. Page 51, line 13, by inserting after the word "devise" the words "or may contract with a private agency, or may use a combination of the two to provide for". F adopted as amended by 3249 2/27 (503)

11. Page 51, line 23, by striking the words "an annual or temporary" and inserting in lieu thereof the words "a professional or nonprofessional".

12. Page 51, line 33, by striking the words "an annual or temporary" and inserting in lieu thereof the words "a professional or nonprofessional".

13. Page 52, line 18, by striking the words "or temporary permits".

14. Page 52, line 31, by striking the words "or temporary permits".

S-3217 FILED, B, C, D, E, F - adopted 2/27
FEBRUARY 25, 1975

BY E. KEVIN KELLY
GEORGE R. KINLEY
DALE L. TIEDEN

S-3220

Amend Senate File 85 as follows:
1. Page 135, line 16, by striking the words "a defendant" and inserting in lieu thereof the words "either party".
2. Page 135, line 20, by striking the word "he" and inserting in lieu thereof the words "the party".
3. Page 135, line 20, by striking the word "prosecutor" and inserting in lieu thereof the words "other party".
4. Page 135, line 21, by striking the word "prosecution" and inserting in lieu thereof the words "other party".

S-3220 FILED - w.d. 2/27 (502) BY JAMES M. REDMOND
FEBRUARY 26, 1975

S-3221

Amend Senate File 85, page 26, line 6, by inserting after the word "felony" the following: ", assault".

S-3221 FILED - adopted 2/27 (493) BY WILLIAM P. WINKELMAN
FEBRUARY 26, 1975 ELIZABETH SHAW
RICHARD R. RAMSEY

SENATE FILE 85

S-3222

Amend Senate File 85, page 131, line 31, by inserting after the word "cross-examination" the words "of all witnesses".

S-3222 FILED - adopted 2/27 (501) BY RICHARD R. RAMSEY
FEBRUARY 26, 1975

S-3224

Amend Senate File 85 as follows:
1. Page 10, line 20, by striking the words ", including deadly force,".
2. Page 10, by striking lines 27 through 29 and inserting in lieu thereof the following: "place. An officer is justified in using deadly force only when he reasonably believes that such force is necessary to prevent death or serious injury to himself or another, or when he reasonably believes that the person escaping has committed a felony, and reasonably believes either of the following is true:
1. The felony was a forcible felony.
2. The person escaping is armed, or that there is a substantial risk that the person escaping will cause death or serious physical injury unless his escape is prevented."

S-3224 FILED - Lost 2/27 (493) BY EARL M. WILLITS
FEBRUARY 26, 1975

S-3234

Amend the Gluba amendment S-3226 to page 57 of Senate File 85 in line 18 by striking the word "aggravated" and inserting in lieu thereof the word "serious".

S-3234 FILED - adopted 2/27 (494) BY WILLIAM GLUBA
FEBRUARY 26, 1975

SENATE FILE 85

S-3235

Amend Senate File 85, page 319, in line 8 by inserting after the word "felony" the following: ", however the minimum time to be served before parole may be granted shall be five years".

S-3235 FILED - adopted 2/26 (page 481) BY RAY TAYLOR
FEBRUARY 26, 1975

S-3218

Amend Senate File 85 as follows:

1. Page 48, line 14, by striking the word "one-half" and inserting in lieu thereof the words "six tenths of an". adopted 2/27(505)

2. Page 50, line 5, by striking the words "on a range designed for that purpose". w.d.

3. Page 53, line 2, by striking the word "twenty-four" and inserting in lieu thereof the word "seventy-two". adopted

S-3218 FILED 1 and 3 adopted 2/27(505) BY E. KEVIN KELLY
FEBRUARY 25, 1975

S-3219

Amend Senate File 85, page 31, by inserting after line 30 the following new section:

"Sec. __. NEW SECTION. FRAUD UPON INNKEEPERS AND SERVICE STATIONS.

1. The obtaining of accommodations, including food, lodging, gasoline, and other goods and services from any hotel, motel, or gasoline service station, with intent to defraud the owner or operator thereof is a simple misdemeanor.

2. Either of the following acts shall constitute presumptive evidence of intent to defraud:

a. Removing a vehicle from the premises of a gasoline service station without making payment for goods or services received, and without having obtained from the owner or operator the right to pay subsequent to leaving the premises.

b. Abandoning the premises of a hotel or motel without making payment for accommodations received, and without having obtained from the owner or operator the right to pay subsequent to leaving the premises."

S-3219 FILED - adopted 2/26(483) BY RICHARD R. RAMSEY
FEBRUARY 25, 1975

S-3225

Amend the Junkins et al. amendment (S-3205) to page 216 of Senate File 85 by striking lines 11 through 21 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. MINIMUM SENTENCE--USE OF A FIREARM. 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 he or she was in the immediate possession and control of a firearm, displayed a firearm in a threatening manner, or was armed with a firearm 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 pursuant to this section shall not be eligible for parole until he or she has served the minimum sentence of confinement imposed by this section."

S-3225 FILED AND ADOPTED (478) BY LOWELL L. JUNKINS
FEBRUARY 26, 1975

SENATE FILE 85

S-3226

Amend Senate File 85 as follows:

1. Page 57, line 19, after the word "NEGLECT" insert the words "OF A CHILD".

2. Page 57, line 21, after the word "neglect" insert the words "of a child".

3. Page 57, line 32, after the word "neglect" insert the words "of a child".

4. Page 57, insert after line 32 the following new section:

"Sec. ____. NEW SECTION. WANTON NEGLECT OF A RESIDENT OF A HEALTH CARE FACILITY. 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, mental or moral welfare of a resident of a health care facility as defined in section one hundred thirty-five C point one (135C.1) of the Code. Wanton neglect of a resident of a health care facility is an aggravated misdemeanor.

S-3226 FILED - adopted as amended by 3234 2/27 (494) BY WILLIAM GLUBA
FEBRUARY 26, 1975

S-3215

Amend the Taylor amendment S-3206 to page 63 of Senate File 85 by striking lines 8 through 15 and inserting in lieu thereof the following:

"Sec. 2809. NEW SECTION. COUNTY AND MUNICIPAL ORDINANCES. County and municipal governmental units may enact ordinances in conformity with the provisions of this division applicable to the sale, gift, delivery, or exhibition of obscene materials to persons 18 years of age or older.

S-3215 FILED AND ADOPTED (463) BY ROBERT M. CARR

S-3227

Amend Senate File 85 as follows:

1. Page 58, line 13 and 14, by striking the words "balloons which require fire underneath to propel the same,".

A - adopted 2/27
B - Withdrawn 2/27 (495)

2. Page 59, by inserting after line 12 the following new section:

"Sec. ____. NEW SECTION. MANNED FREE BALLOONS. For the purposes of this section, "manned free balloons" shall include captive lighter than air gas balloons, hot air balloons, smoke balloons or other balloons which require fire underneath to propel it.

No person who is not then certified by the Federal Aviation Administration of the United States as a student, a private pilot with a lighter-than-air category rating, or a commercial pilot with a free balloon rating, shall operate a manned free balloon. Any person who violates this paragraph commits a serious misdemeanor.

No person shall operate a manned free balloon which is not then certified as airworthy by the Federal Aviation Administration of the United States. The certificate of airworthiness shall be by those regulations then in force and published in the Code of Federal Regulations. Any person violating this paragraph commits a serious misdemeanor.

If any association, organization or group of individuals shall plan the operation of more than one manned free balloon at the same time, a permit shall first be obtained from either the council of the city or the board of supervisors of the county in which the operation shall originate. The permit shall be applied for no less than seven days before the day or days on which the operation shall take place. Permits may be issued for an indefinite duration under such regulations as the council or board of supervisors may prescribe. There shall be no charge for the issuance of the permit. No permit shall be issued unless all persons who operate the manned free balloons are then certified and all manned free balloons are certified as airworthy by the Federal Aviation Administration of the United States. Failure to obtain such a permit is a serious misdemeanor.

S-3227 FILED - 1. adopted 2/27 (495) BY BASS VAN GILST
FEBRUARY 26, 1975

S-3228

Amend Senate File 85, page 225, by inserting after line 30 the following new sentence:
"If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more convictions for forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the defendant has served at least one-half of the maximum term of his sentence."

S-3228 FILED - adopted as amended by 3250 2/27 (505) BY RICHARD R. RAMSEY
FEBRUARY 26, 1975 CALVIN O. HULTMAN
DALE L. TIEDEN

S-3229

Amend the Junkins et. al. amendment S-3205 to page 216 of Senate File 85 by inserting after the word "the" in line 6 the word "second".

S-3229 FILED AND ADOPTED
FEBRUARY 26, 1975

BY LOWELL L. JUNKINS

S-3231

Amend the Van Gilst amendment S-3227 to page 58 of Senate File 85 as follows:

1. Line 37, by striking the word "then" and inserting in lieu thereof the words "or will be".
2. Line 37, by inserting after the words "balloons are" the words "or will be".

S-3231 FILED - adopted 2/27(495)
FEBRUARY 26, 1975

BY BASS VAN GILST

SENATE FILE 85

S-3232

Amend the Ramsey et al Amendment S-3228 to Page 225 of Senate File 85 as follows:

1. Line 4, by inserting before the word "felony", the word "forcible".
2. Line 8, by striking the word "one-half" and inserting in lieu thereof the word "one-fourth".

Lost 2/27(505)
withdrawn 2/27(504)

S-3232 FILED
FEBRUARY 26, 1975

BY RICHARD R. RAMSEY
LOWELL L. JUNKINS

SENATE FILE 85

S-3233

Amend Senate File 85 as follows:

1. Page 216, by inserting after line 28 the following new section.

"Sec. _____. NEW SECTION. INDETERMINATE SENTENCE--MINIMUM SENTENCE. When a judgment of conviction and an indeterminate sentence is imposed pursuant to section two hundred three (203) of this division, the court may in its discretion order the director of adult corrections to hold the offender in custody for a minimum period up to but not to exceed one-half of the maximum indeterminate sentence provided for by section two hundred ten (210) of this division."

2. By renumbering the remaining sections in accordance with this amendment.

S-3233 FILED - Lost 2/26(479)
FEBRUARY 26, 1975

BY WILLIAM P. WINKELMAN
RAY TAYLOR
RICHARD R. RAMSEY

S-3236

Amend Senate File 85 as follows:

1. Page 130, by inserting after line 33, the following new paragraph: A

"For purpose of this subsection, special circumstances shall be deemed to exist, and the court shall order that depositions be taken, only upon the showing of necessity arising from either of the following circumstances:

a. There is a liklihood that the prospective witness to be deposed will be unavailable at the time of trial.

b. The prospective witness to be deposed has not previously been examined at a preliminary hearing by the party requesting the deposition, and the information sought by way of deposition cannot adequately be disclosed by a bill of particulars and is necessary in order that the defendant receive a fair trial.

Upon issuance by the court of an order to take a deposition the moving party must provide, prior to the taking of any deposition, a list of all witnesses expected to be called by the moving party at trial, and those witnesses shall be subject to pre-trial discovery by the nonmoving party. A defendant, however, need not disclose whether or not that defendant intends to testify at trial." B

2. Page 133, line 2, by striking the words "with the consent of the court". A

3. Page 135, line 30, by inserting after the word "appropriate." the following:

"In addition to any other grounds for issuing an order pursuant to this paragraph, the court may limit or deny discovery or inspection, or limit the number of depositions to be taken if the court determines that any of the following exist:

(1) That granting the motion will unfairly prejudice the nonmoving party and will deny that party a fair trial.

(2) That the motion is intended only as a fishing expedition and that granting the motion will unduly delay the trial and will result in unjustified expense.

(3) That the granting of the motion will result in the disclosure of privileged information.

(4) That the granting of the motion will create a probability of fabrication on the part of the moving party."

S-3236 FILED - adopted 2/27 (501) BY RICHARD R. RAMSEY
FEBRUARY 26, 1975

SENATE FILE 85

S-3237

Amend Senate File 85 as follows:

1. Page 20, by inserting after line 8 the following new section:

"Sec. ____. NEW SECTION. 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.

S-3237 FILED - adopted 2/27 (473)
FEBRUARY 26, 1975

BY MINNETTE DODERER
ROBERT M. CARR
WILLIAM D. PALMER
JOAN ORR
C. JOSEPH COLEMAN
RICHARD J. NORPEL, SR.
JAMES V. GALLAGHER
WILLARD R. HANSEN
PHILIP B. HILL
JOHN S. MURRAY
JAMES E. BRILES
FORREST V. SCHWENGELS
WARREN E. CURTIS
MILO MERRITT
ELIZABETH R. MILLER

ELIZABETH SHAW
STEVE SOVERN
WILLIAM E. GLUBA
WILLIAM N. PLYMAT
BERL E. PRIEBE
FRED W. NOLTING
KENNETH D. SCOTT
JAMES M. REDMOND
EARL M. WILLITS
CLIFF BURROUGHS
IRVIN L. BERGMAN
CHARLES P. MILLER

S-3238

Amend Senate File 85 as follows:

1. Page 135, by striking lines 15 through 22.

2. Page 135, by inserting after line 25 the following new paragraph:

"4. CONTINUING DUTY TO DISCLOSE. If, subsequent to compliance with an order issued pursuant to this rule, either party discovers additional evidence, or decides to use evidence which is additional to that originally intended for use, and such additional evidence is subject to discovery under this rule, the party shall promptly notify the other party of the existence of the additional evidence to allow the other party to make an appropriate motion for additional discovery."

3. By renumbering the remaining paragraphs and changing internal references in accordance with this amendment.

S-3238 FILED AND ADOPTED (502)
FEBRUARY 27, 1975

BY JAMES M. REDMOND

S-3244

Amend Senate File 85, page 229, line 20, by inserting after the word "However," the words "except when the controlled substance is marijuana to which this section shall apply,".

S-3244 FILED AND LOST (504)
FEBRUARY 27, 1975

BY MINNETTE F. DODERER
IRVIN L. BERGMAN

S-3242

Amend Senate File 85, page 220, line 14, by inserting after the word "dollars" the following:

"; provided, that in the case of theft in the fourth degreeof property exceeding fifty dollars in value the sentence may include imprisonment not to exceed sixty days, or a fine not to exceed two hundred dollars, or both".

S-3242 FILED AND ADOPTED (502) BY CALVIN O. HULTMAN
FEBRUARY 27, 1975 BERL E. PRIEBE
NORMAN G. RODGERS
CLIFTON C. LAMBORN

S-3245

Amend Senate File 85, page 65, line 15, by striking the words "ninety-seven A point one (97A.1), subsection two (2)" and inserting in lieu thereof the words "eighty point nine (80.9)".

S-3245 FILED AND ADOPTED (498) BY GENE W. GLENN
FEBRUARY 27, 1975

S-3249

Amend the Kelly, et. al. amendment, S-3217, to page 49 of Senate File 85, line 37 by striking the word "agency" and inserting in lieu thereof the word "organization".

S-3249 FILED AND ADOPTED (503) BY E. KEVIN KELLY
FEBRUARY 27, 1975

SENATE FILE 85

S-3250

Amend the Ramsey et. al. amendment S-3228 to page 225 of Senate File 85 in line 5 by inserting after the word "more" the word "prior".

S-3250 FILED AND ADOPTED (p. 504) BY RICHARD F. RAMSEY
FEBRUARY 27, 1975

FILE [illegible]

SENATE FILE 85

By COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE - February 27, 1975)

Passed Senate, Date 4/22/76 (p. 2163) Passed House, Date 2/27/75 (p. 506)

Vote: Ayes 67 Nays 28 Vote: Ayes 37 Nays 10

Passed 5/28/76 Vote 60-28 Approved June 28, 1976

Passed 5-7-76 Vote 30-11

Passed 5/28/76 Vote 32-18

A BILL FOR

An Act relating to a complete revision of the substantive criminal laws, criminal procedure laws, and sentencing and post-conviction procedure laws of this state; providing rules of criminal procedure; providing classifications of public offenses and their consequent penalties; and providing penalties for violations of laws of the state to accord with the revised classifications.

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

[redacted] - New Code language by the Senate

_____ - New language by the Senate

CHAPTER 1

DIVISION I

GENERAL PROVISIONS

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as "Iowa Criminal Code". A citation to the Iowa Criminal Code shall identify this Act together with all amendments which may be made so as to reflect the current state of the law.

Sec. 102. NEW SECTION. PUBLIC OFFENSE. ~~An act is~~ A public offense if it is prohibited by a statute which defines it as such or which classifies it as a felony or a misdemeanor. An act is not criminal unless a statute declares it to be a public offense, crime, felony or misdemeanor or is punishable by fine or imprisonment.

Sec. 103. NEW SECTION. PRESUMPTION OF INNOCENCE. Every person is presumed innocent until proved guilty. No person shall be convicted of any offense unless his guilt thereof is proved beyond a reasonable doubt.

Sec 104. NEW SECTION. INSANITY. No person shall be convicted of any crime if at the time such crime is committed he suffers from such a diseased or deranged condition of the mind so as to render him incapable of knowing the nature and quality of the act he 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.

Sec. 105. NEW SECTION. INTOXICANTS OR DRUGS. The fact that a person is under the influence of intoxicants or drugs neither excuses his act nor aggravates his guilt, but may be shown where it is relevant in proving his specific intent or recklessness at the time of his alleged criminal act or in proving any element of the public offense with which he

is charged.

Sec. 106. NEW SECTION. 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 he is charged. A person's reasonable belief that his conduct does not constitute a crime is not a defense unless one of the following is true:

1. He acts in reliance upon a statute which would have absolved him from guilt and which is later determined to be invalid.

2. He acts in reliance upon an order or ruling of any court of the United States or the supreme court or a district court of this state which would have absolved him from guilt and which is later overruled or reversed.

3. He acts in reliance upon an official interpretation of a statute, regulation or order by the attorney general of this state which would have absolved him from guilt and which is later found to be in error.

Sec. 107. NEW SECTION. 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 nor provides for a specific penalty, such felony shall be a class D felony.

Sec. 108. NEW SECTION. 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.

Sec. 109. NEW SECTION. DEGREES SPECIFIED IN INDICTMENT. An indictment for any public offense for which degrees are

fixed by law shall specify the degree of the offense.

Sec. 110. NEW SECTION. MERGER OF LESSER INCLUDED OFFENSES. No person shall be convicted of a public offense which is necessarily included in another public offense of which he 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.

Sec. 111. NEW SECTION. 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.

DIVISION II

DEFINITIONS

Section 201. NEW SECTION. POLICY OF UNIFORMITY. Wherever a term, word or phrase is defined in the criminal code, such meanings shall be given to that term wherever it appears in the Code, unless it is clear that the term is being specially defined for a special purpose.

Sec. 202. NEW SECTION. ACT. The term "act" includes a failure to do any act which the law requires one to perform.

Sec. 203. NEW SECTION. ANIMAL. An animal is any nonhuman, animate creature.

Sec. 204. NEW SECTION. 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.

Sec. 205. NEW SECTION. CHILD. For purposes of this Act, unless another age is specified, a child is any person under the age of fourteen years.

Sec. 206. NEW SECTION. CONTROLLED SUBSTANCE. The term "controlled substance" means controlled substance as that term is defined and used in chapter two hundred four (204) of the Code.

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Sec. 207. NEW SECTION. CRIME. The term "crime" is synonymous with "public offense".

Sec. 208. NEW SECTION. DANGEROUS WEAPON. A dangerous weapon is any instrument or device designed primarily for use in inflicting death or injury upon a human being or other living creature, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. 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.

Sec. 209. NEW SECTION. FRAUDULENT PRACTICE. Fraudulent practice 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 incumbering 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 he 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

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token into the money slot of any machine which dispenses goods or services.

Sec. 210. NEW SECTION. 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.

Sec. 211. NEW SECTION. FORCIBLE FELONY. A forcible felony is any felonious assault, homicide, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary.

Sec. 212. NEW SECTION. OCCUPIED STRUCTURE. An occupied structure is any building structure, 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.

Sec. 213. NEW SECTION. PARTICIPATING IN A PUBLIC OFFENSE. A person is participating in a public offense, during 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 he 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 he is successful or unsuccessful in committing the offense.

Sec. 214. NEW SECTION. PROPERTY. Property is anything of value, whether publicly or privately owned. 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".

Sec. 215. NEW SECTION. PROSTITUTE. A prostitute is a person who sells or offers for sale his or her services as

a participant in a sex act.

Sec. 216. NEW SECTION. REASONABLE AND UNREASONABLE. "Reasonable" and "unreasonable" mean reasonable and unreasonable as judged according to the current standards of the community as a whole. Whether an act is reasonable or unreasonable shall be judged in the light of the surrounding circumstances as the actor believes them to be, provided that such belief shall not itself be unreasonable. The fact that an act is prohibited by a statute shall be evidence, to be considered with the other circumstances, from which the court or jury may find that the doing of such act is unreasonable.

Sec. 217. NEW SECTION. RECKLESS. A person is reckless or acts recklessly when he consciously disregards a substantial risk that a specified result will follow, and such disregard constitutes a substantial deviation from the standard of care which a reasonable person would exercise in the situation.

Sec. 218. NEW SECTION. SEX ACT. The term "sex act" or "sexual activity" means any sexual contact between two or more persons, either natural or deviate, by penetration of the penis into the vagina or anus, by contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person or by use of artifical sexual organs or substitutes therefor in contact with genitalia or an

Sec. 219. NEW SECTION. SERIOUS INJURY. "Serious injury" means death, permanent disability or disfigurement, or protracted loss or impairment of the function of any body member or organ, or an injury requiring extended treatment or a prolonged healing period, or a disabling mental illness requiring extended treatment or prolonged care.

Sec. 220. NEW SECTION. STEAL. "Steal" means to take by theft.

DIVISION III

PARTIES TO CRIME

Section 301. NEW SECTION. LIABILITY FOR CONDUCT OF ANOTHER. Any person who causes another person to act illegally, either by soliciting, counseling, coercing or

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encouraging such illegal act, or any person who intentionally aids another to do any illegal act or engage in any illegal activity, shall be guilty to the same extent as if he had done the act or engaged in such activity himself. The guilt of such person is in no way dependent upon the guilt of the person who does the act. In determining the guilt of one who causes or aids another to act, his own intent, recklessness, or negligence shall be the determining factor, and the intent, recklessness, or negligence of the person who did the act shall be of no consequence.

Sec. 302. NEW SECTION. JOINT CRIMINAL CONDUCT. When two or more persons, acting in concert, 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 his guilt will be the same as that of the person so acting, unless the act was one which he did not expressly or tacitly acquiesce in and was not one which he could reasonably expect to be done in the furtherance of the commission of the offense.

Sec. 303. NEW SECTION. ACCESSORY AFTER THE FACT.

1. Any person having knowledge that a felony has been committed, and who does not stand in the relation of husband or wife to the felon, who, with intent to prevent the apprehension of the felon, harbors, aids or conceals the felon, shall be guilty of an aggravated misdemeanor.

2. Any person having knowledge that a misdemeanor has been committed, and who does not stand in the relation of husband or wife to the offender, who, with intent to prevent the apprehension of the offender, harbors, aids or conceals the offender, shall be guilty of a simple misdemeanor.

Sec. 304. NEW SECTION. RESPONSIBILITY OF EMPLOYERS. An employer, or his agent, officer or employee who supervises or directs the work of other employees, is guilty of a public offense committed by an employee acting under his control, supervision or direction in any of the following cases:

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1. He has directed the employee to commit a public offense.

2. He 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. He assigns the employee some duty or duties which he 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.

Sec. 305. NEW SECTION. LIABILITY OF CORPORATIONS, PARTNERSHIPS AND VOLUNTARY ASSOCIATIONS. A public or private corporation, partnership, or other voluntary association shall be guilty of a public offense when any of the following is true:

1. The conduct constituting the offense consists of an omission to discharge a specific duty or an affirmative performance imposed on the accused by law.

2. The conduct or act constituting the offense is committed by an agent, officer or employee of the accused while acting within the scope of his authority 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. "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.

DIVISION IV

JUSTIFICATION

Section 401. NEW SECTION. REASONABLE FORCE. Reasonable force is that force which a reasonable person, in like circum-

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stances, would judge to be necessary to prevent an injury or loss, and no more, except that the use of deadly force against another is reasonable only to resist a like force or threat. The fact that an alternative course of action is available does not make the use of force, including deadly force, unreasonable where the alternative entails a risk to one's life or safety, or the life or safety of a third party, or requires one to abandon or retreat from his dwelling or place of business or employment.

Sec. 402. NEW SECTION. DEADLY FORCE. The term "deadly force" means any of the following:

1. Force used for the purpose of causing serious injury.

2. Force which the actor knows or reasonably should know will create a strong probability that serious injury will result.

3. The discharge of a firearm in the direction of some person with the knowledge of his presence there, even though no intent to inflict serious physical injury can be shown.

4. The discharge of a firearm at a vehicle in which a person is known to be.

Sec. 403. NEW SECTION. DEFENSE OF SELF OR ANOTHER. A person is justified in the use of reasonable force when he reasonably believes that such force is necessary to defend himself or another from any imminent use of unlawful force.

Sec. 404. NEW SECTION. DEFENSE OF PROPERTY. A person is justified in the use of reasonable force to prevent or terminate criminal interference with his possession or other right in property.

Sec. 405. NEW SECTION. 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 property.

Sec. 406. NEW SECTION. 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.

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2. One who initially provokes the use of force against himself, 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 himself by his unlawful acts, unless:

a. Such force is grossly disproportionate to the provocation, and is so great that he reasonably believes that he is in imminent danger of death or serious injury or

b. He withdraws from physical contact with the other and indicates clearly to the other that he desires to terminate the conflict but the other continues or resumes the use of force.

Sec. 407. NEW SECTION. RESISTING FORCIBLE FELONY. A person who knows that a forcible felony is being perpetrated is justified in using, against the felon, any force which he reasonably believes to be necessary to prevent the completion of that felony.

Sec. 408. NEW SECTION. ESCAPE FROM PLACE OF CONFINEMENT. A correctional officer or peace officer is justified in using force, including deadly force, which he reasonably believes to be 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 a misdemeanor.

Sec. 409. NEW SECTION. 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 or menace of serious injury, provided that he reasonably believes that such injury is imminent and can be averted only by his doing such act.

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Sec. 410. NEW SECTION. POLICE ACTIVITY. A peace officer or person employed by any police agency who joins in the participation 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, provided that all of the following are true:

1. He is not the instigator of the criminal activity.

2. He does not intentionally injure a nonparticipant in the crime.

3. He acts with the consent of his superiors or the necessity of immediate action precludes his obtaining such consent.

4. His actions are reasonable under the circumstances.

Sec. 411. NEW SECTION. USE OF TRAPS NOT AUTHORIZED. Nothing in this division shall authorize the use of any device which can cause serious physical injury and which is left unattended and unsupervised to be sprung, discharged, or otherwise operated by an unwitting person and which is not under the immediate and conscious control of some person.

Sec. 412. NEW SECTION. 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 chapter two (2), sections four hundred ten (410) through four hundred fifteen (415) of this Act.

DIVISION V

SOLICITATION

Section 501. NEW SECTION. SOLICITATION. Any person who commands, entreats, or otherwise attempts to persuade another 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, solicits such other to commit that felony or aggravated misdemeanor. One who solicits another to commit a felony of any class commits a class D felony. One who solicits another to commit an aggravated misdemeanor commits an aggra-

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vated misdemeanor.

Sec. 502. NEW SECTION. 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 him 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 (a) his belief that circumstances exist which increase the possibility of detection or apprehension of the defendant or another or which makes more difficult the consummation of the offense or (b) his decision to postpone the offense until another time or, to substitute another victim or another but similar objective.

DIVISION VI

CONSPIRACY

Section 601. NEW SECTION. CONSPIRACY. A conspiracy is one person agreeing with another person or persons to engage in a course of conduct which will consist, in whole or part, of criminal acts to be committed by one or more of the conspirators. No person shall be convicted of a conspiracy on the testimony of a single witness unless such testimony is corroborated by other evidence of actions by one or more of the conspirators, or other circumstances, evidencing a design to accomplish the purpose of the conspiracy by criminal means.

Sec. 602. NEW SECTION. LOCUS OF CONSPIRACY. A person commits a conspiracy in any county where he is physically present when he makes such agreement or voluntary alliance, and in any county where the person with whom he makes such agreement or voluntary alliance 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

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the conspiracy, whether or not he is or has ever been present in such county; provided, that this section does not permit more than one prosecution for conspiracy based on the same agreement or voluntary alliance.

Sec. 603. NEW SECTION. PENALTIES. A person who commits a conspiracy to commit a felony, or to engage in a course of conduct which shall consist in whole or in part of criminal acts which are felonies, is guilty of a class C felony if any such is a forcible felony; otherwise he is guilty of a class D felony.

A person who commits a conspiracy to do a criminal act which is a misdemeanor of some class, or to engage in a course of conduct which would consist, in whole or in part, of misdemeanors of some class, commits a misdemeanor of the same class.

Sec. 604. NEW SECTION. 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.

DIVISION VII

HOMICIDE

Sec. 701. NEW SECTION. CRIMINAL HOMICIDE DEFINED. A person who kills another person with malice aforethought either express or implied commits criminal homicide.

Sec. 702. NEW SECTION. CRIMINAL HOMICIDE IN THE FIRST DEGREE. A person commits criminal homicide in the first degree when he or she commits criminal homicide under any of the following circumstances:

1. The person willfully, deliberately, and with premeditation kills another person.

2. The person kills another person while participating in a forcible felony.

3. The person kills another person while escaping

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or attempting to escape from lawful custody.

Criminal homicide in the first degree is a class A felony.

Sec. 703. NEW SECTION. CRIMINAL HOMICIDE IN THE SECOND DEGREE. A person commits criminal homicide in the second degree when he or she commits criminal homicide which is not criminal homicide in the first degree.

Criminal homicide in the second degree is a class B felony.

Sec. 704. NEW SECTION. VOLUNTARY MANSLAUGHTER. A person commits voluntary manslaughter when that person causes the death of another person, under circumstances which would otherwise be criminal homicide, if he or she acts solely as the result of sudden, violent, and irresistable 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 his or her control and suppress the impulse to kill.

Voluntary manslaughter may be proved as an included offense under an indictment for criminal homicide in the first or second degree.

Voluntary manslaughter is a class C felony.

Sec. 705. NEW SECTION. INVOLUNTARY MANSLAUGHTER.

1. A person commits 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.

2. A person commits 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.

Involuntary manslaughter as defined in this section

may be proved as an included offense under an indictment for criminal homicide in the first or second degree or voluntary manslaughter.

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Sec. 706. NEW SECTION. FETICIDE. Any person who intentionally terminates a human pregnancy after the end of the second trimester of the pregnancy commits feticide. Feticide is a class C felony. This section shall not apply to the termination of a human pregnancy performed by a physician licensed in this state to practice medine or surgery when in the best clinical judgment of the physician the termination is performed to preserve the life or health of the pregnant person and every medical effort not inconsistent with preserving the life of the pregnant person is made to preserve the life of the fetus.

Any person who terminates a human pregnancy who is not a person licensed to practice medicine and surgery under the provisions of chapter one hundred forty-eight (148) of the Code, or an osteopathic physician

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and surgeon licensed to practice osteopathic medicine and surgery under the provisions of chapter one hundred fifty A (150A) of the Code, commits a class C felony.

Sec. 707. NEW SECTION. NONCONSENTUAL TERMINATION.

1. A person who terminates a human pregnancy without the consent of the pregnant person during the commission of a felony or assault is guilty of a class B felony.

2. A person who intentionally terminates a pregnancy without the knowledge and consent of the pregnant person is guilty of a class C felony. This subsection shall not apply to a termination performed without the consent or knowledge of the pregnant person by a physician licensed in this state to practice medicine or surgery when circumstances preclude the pregnant person from providing her consent and the termination is performed to preserve the life or health of the pregnant person.

3. A person who by force or intimidation procures the consent of the pregnant person to a termination of a pregnancy is guilty of a class C felony.

Sec. 708. NEW SECTION. HOMICIDE OF FETUS ABORTED ALIVE. A person who intentionally kills a fetus aborted alive after the twentieth week of pregnancy shall be guilty of a class B felony.

Sec. 709. NEW SECTION. DUTY TO PRESERVE THE LIFE OF THE FETUS. After the twentieth week of pregnancy, a person who performs or induces a termination of a human pregnancy and who fails to exercise that degree of professional skill, care and diligence available to preserve the life and health of a fetus showing significant, sustainable vital signs shall be guilty of a serious misdemeanor.

Sec. 710. NEW SECTION. ATTEMPT TO COMMIT HOMICIDE. A person commits a class C felony when, with the intent to cause the death of any person and not under circumstances which

would justify his actions, he does any act by which he expects to set in motion a force or chain of events which will cause or result in the death of such other person.

It is not a defense to an indictment for attempt to commit homicide 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 his expectations were not unreasonable in the light of the facts known to him.

DIVISION VIII

ASSAULT AND BATTERY

Section 801. NEW SECTION. ASSAULT. A person commits an assault when, without justification, he does any of the following:

1. 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.

2. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive.

3. Intentionally points any firearm toward another, or displays in a threatening manner any deadly weapon toward another.

Provided, that where the person doing any of the above 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, the act shall not be an assault.

Sec. 802. NEW SECTION. PENALTIES FOR ASSAULT.

1. A person who commits an assault, as defined in section eight hundred one (801) of this division, with the intent to inflict a serious injury upon another, shall be guilty of an aggravated misdemeanor.

2. Any other assault is a simple misdemeanor.

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Sec. 803. NEW SECTION. ASSAULT WHILE PARTICIPATING IN A FELONY. Any person who commits an assault as defined in section eight hundred one (801) of this division while participating in a felony is guilty of a class C felony if he thereby causes serious injury to any person; if no serious injury results, he is guilty of a class D felony.

Sec. 804. NEW SECTION. WILLFUL INJURY. Any person who does an act which is not justified and which is intended to cause and does cause serious injury to another commits a class C felony.

Sec. 805. NEW SECTION. ADMINISTERING HARMFUL SUBSTANCES. Any person who administers to another or causes another to take, without his 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.

Sec. 806. NEW SECTION. RECKLESSLY ENDANGERING LIFE OR SAFETY.

1. Any person who, by his reckless conduct, creates an unreasonable risk of serious injury to another shall be guilty of a serious misdemeanor.

2. Any person who, by his reckless conduct, causes another serious injury short of death, commits an aggravated misdemeanor.

Sec. 807. NEW SECTION. TERRORISM. A person commits a class D felony when he does any of the following with the intent to injure, harass, or provoke fear or anger in another:

1. Shoots or throws a missile or discharges a firearm at or into any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person, and thereby places the occupants thereof in reasonable apprehension of serious injury.

2. Threatens to commit a forcible felony under circumstances raising a reasonable expectation that the threat will

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be carried out.

Sec. 808. NEW SECTION. HARASSMENT. A person commits harassment when, with intent to intimidate, annoy or alarm another person, he does any of the following:

1. Taunts or challenges another in a manner likely to provoke violent response.

2. Follows another about from place to place in a manner which is obvious to the person being followed.

3. Communicates with another by telephone, telegraph, or writing without legitimate purpose and in a manner likely to cause him annoyance or harm.

4. Places any simulated explosive or incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by such person.

5. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.

6. 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 same did not occur.

Harassment is a simple misdemeanor.

Sec. 809. NEW SECTION. 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.

Sec. 810. NEW SECTION. SPRING GUNS AND MANTRAPS. 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.

DIVISION IX

SEXUAL ABUSE

Section 901. NEW SECTION. SEXUAL ABUSE. Any sex act between persons who are not husband and wife, or between a husband and wife who are not at the time cohabiting as husband and wife, is sexual abuse

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by either of the participants when he performs the act with the other participant in any of the following circumstances:

1. Such act is done by force against the will of the other. In any case where the consent or acquiescence of the other is procured by threats of violence toward any person, the act is done against the will of the person so consenting or acquiescing.

2. Such act is done without the consent of the other, when circumstances preclude active resistance by the other.

3. Such other participant is suffering from a mental defect which precludes effective resistance, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.

4. Such other participant is a child.

Sec. 902. NEW SECTION. SEXUAL ABUSE IN THE FIRST DEGREE. A person commits sexual abuse in the first degree when in the course of committing sexual abuse he causes another serious injury.

Sexual abuse in the first degree is a class A felony.

Sec. 903. NEW SECTION. SEXUAL ABUSE IN THE SECOND DEGREE. A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

1. During the commission of sexual abuse the person displays in a threatening manner a deadly weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.

2. The other participant is under the age of twelve.

3. The person is aided or abetted by one or more persons and the sex act is committed by force and against the will of the other participant.

Sexual abuse in the second degree is a class B felony.

Sec. 904. NEW SECTION. SEXUAL ABUSE IN THE THIRD DEGREE. A person commits sexual abuse in the third degree when he commits a sexual abuse upon another in any of the following

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circumstances:

1. Such act is done by force and against the will of the other.

2. The other participant is suffering from a mental illness or defect which precludes effective resistance, or lacks the mental capacity to know the right and wrong of conduct

in sexual matters.

3. The other participant is a child.

Sexual abuse in the third degree is a class C felony.

Sec. 905. NEW SECTION. SEXUAL ABUSE IN THE FOURTH DEGREE. A person commits sexual abuse in the fourth degree when he commits any sexual abuse upon another which is not sexual abuse in the first, second or third degree.

Sexual abuse in the fourth degree is a class D felony.

Sec. 906. NEW SECTION. 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.

Sec. 907. NEW SECTION. DETENTION IN BROTHEL. Any person who, by force, intimidation, or false pretense entices another who is not a prostitute to enter a brothel with the intent to cause such other to become an inmate thereof, or who detains another, whether a prostitute or not, in any brothel, against the will of such other, with the intent that such other engage in prostitution therein, commits a class C felony.

Sec. 908. NEW SECTION. LASCIVIOUS ACTS WITH PERSONS UNDER THE AGE OF SIXTEEN YEARS. It is unlawful for any person eighteen years of age or older to perform any of the following acts with any person under the age of sixteen, with or without his or her consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:

1. Fondle or touch the pubes or genitals of a person under the age of sixteen.

2. Permit a person under the age of sixteen to fondle or touch his or her genitals or pubes.

3. Solicit a person under sixteen years of age to engage in sexual contact performed by penetration of the penis into the vagina or anus or by contact between the mouth and genitalia or anus, or by use of artificial sexual organs or

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substitutes therefor in contact with genitalia or annus.

4. Inflict pain or discomfort upon a person under the age of sixteen or permit a person under the age of sixteen to inflict pain or discomfort on him or her.

Any person who violates a provision of this section shall,

upon conviction, be guilty of a class D felony.

Sec. 909. NEW SECTION. INDECENT EXPOSURE. A person who exposes his genital or pubes to another not his spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor, if:

1. He does so to arouse or satisfy the sexual desires of either of them; and

2. He knows or reasonably should know that his act is offensive to the viewer.

Sec. 910. NEW SECTION. COST OF MEDICAL EXAMINATION IN CRIMES OF SEXUAL ASSAULT. The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing veneral disease shall be borne by the county in which the crime was committed,

DIVISION X

KIDNAPPING AND RELATED OFFENSES

Section 1001. NEW SECTION. KIDNAPPING. A person commits kidnapping when he either confines a person or removes a person from one place to another, knowing that he 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 him to a sexual abuse.

4. The intent to secretly confine such person.

5. The intent to interfere with the performance of any government function.

Sec. 1002. NEW SECTION. KIDNAPPING IN THE FIRST DEGREE. 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.

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Kidnapping in the first degree is a class A felony.

Sec. 1003. NEW SECTION. KIDNAPPING IN THE SECOND DEGREE. Kidnapping where the purpose is to hold the victim for ransom or where the kidnapper is armed with a firearm or displays a dangerous weapon is kidnapping in the second degree. Kidnapping in the second degree is a class B felony.

Sec. 1004. NEW SECTION. KIDNAPPING IN THE THIRD DEGREE. All other kidnappings are kidnappings in the third degree. Kidnapping in the third degree is a class C felony.

Sec. 1005. NEW SECTION. CHILD STEALING. A person commits

a class C felony when, knowing that he has no authority to do so, he 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 he is a relative of such child, and his sole purpose is to assume custody of such child.

Sec. 1006. NEW SECTION. VIOLATING CUSTODIAL ORDER. Any relative of a child who, acting in violation of any order of any court which fixes, permanently or temporarily, the custody of such child in another, takes such child and removes him from the state, without the consent of the person having lawful custody, commits a class D felony.

Sec. 1007. NEW SECTION. FALSE IMPRISONMENT. A person commits false imprisonment when, having no reasonable belief that he has any right or authority to do so, he intentionally confines another against his will. A person is confined when his freedom to move about is substantially restricted by force, threat, or deception. False imprisonment is a serious misdemeanor.

DIVISION XI

ROBBERY AND EXTORTION

Section 1101. NEW SECTION. ROBBERY. A person commits a robbery when, having the intent to commit a theft, he does any of the following acts to assist or further the commission of the intended theft, or his escape from the scene thereof with or without the stolen property:

1. Commits an assault upon another.

2. Threatens another with or purposely puts him in fear of immediate serious injury.

3. Threatens to commit immediately any forcible felony.

It is immaterial to the question of guilt or innocence of robbery that property was or was not actually stolen.

Sec. 1102. NEW SECTION. ROBBERY IN THE FIRST DEGREE. A person commits robbery in the first degree when, while

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perpetrating a robbery, he purposely inflicts or attempts to inflict serious injury, or displays a dangerous weapon, or is armed with a firearm. Robbery in the first degree is a class B felony.

Sec. 1103. NEW SECTION. 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.

Sec. 1104. NEW SECTION. EXTORTION. A person commits extortion if he does any of the following with the purpose of obtaining for himself or another anything of value, tangible or intangible, including labor or services:

1. Threatens to inflict physical injury on some person, or to commit any public offense.

2. Threatens to accuse another of a public offense.

3. Threatens to expose any person to hatred, contempt, or ridicule.

4. Threatens to harm the credit or business or professional reputation of any person.

5. 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.

6. Threatens to testify or provide information or to withhold testimony or information with respect to another's legal claim or defense.

7. Threatens to wrongfully injure the property of another.

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 he 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 he has a good faith claim.

Extortion is a class D felony.

DIVISION XII

ARSON

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Section 1201. NEW SECTION. ARSON. 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.

Sec. 1202. NEW SECTION. ARSON IN THE FIRST DEGREE. Arson is arson in the first degree when the property which the defendant intends to destroy or damage, or which he knowingly endangers, is a dwelling, or a building in which the presence of one or more persons can be reasonably anticipated, or when he knows or should know that his act will create a reasonable probability that death or serious physical injury to another will result. Arson in the first degree is a class B felony.

Sec. 1203. NEW SECTION. ARSON IN THE SECOND DEGREE. Arson which is not arson in the first degree is arson in the second degree when the property which the defendant intends to destroy or damage, or which he knowingly endangers, is a building or a structure, or real property of any kind, or standing crops, or is personal property the value of which exceeds five hundred dollars. Arson in the second degree is a class C felony.

Sec. 1204. NEW SECTION. ARSON IN THE THIRD DEGREE. Arson which is not arson in the first degree or arson in the second degree is arson in the third degree. Arson in the third degree is an aggravated misdemeanor.

Sec. 1205. NEW SECTION. DEFENSE. In any prosecution for arson, if all of the following shall be proved, the accused shall be found not guilty of arson:

1. A person whose ownership or security interest in the property which the defendant intends to destroy or damage, or which he knowingly endangers, equals ninety percent or more of its value, consented to the defendant's acts.

2. No insurer has been exposed fraudulently to any risk

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which he has not knowingly contracted for.

3. The act was done in such a way as not to unreasonably endanger the life or property of any other person.

Sec. 1206. NEW SECTION. RECKLESS USE OF FIRE OR EXPLOSIVES. Any person who shall so use fire or any incendiary or explosive device or material as to recklessly endanger the property or safety of another shall be guilty of a serious misdemeanor.

Sec. 1207. NEW SECTION. POSSESSION OF EXPLOSIVE OR INCENDIARY MATERIALS OR DEVICES. Any person who shall possess any incendiary or explosive device or material with the intent to use such device or material to commit any public offense shall be guilty of a class C felony.

Sec. 1208. NEW SECTION. INTENTIONALLY OR RECKLESSLY RISKING A CATASTROPHE. A catastrophe is any occurrence which causes or seriously threatens widespread injury or damage, including, but not limited to: explosion, fire, flood, avalanche, or collapse of buildings; the release of poison gas, radioactive material, or other similarly harmful or destructive substances; the pollution of a water supply by substances capable of causing epidemic, poisoning, or serious injury of persons throughout the community served by it. Any person who intentionally causes a catastrophe or who recklessly creates a risk of catastrophe is guilty of a class C felony.

Sec. 1209. NEW SECTION. 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 will be endangered commits a class D felony.

Sec. 1210. NEW SECTION. THREATS. A person who makes any threat to any other person to place or attempt to place any incendiary or explosive device or material, or any

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destructive substance or device in any place where it will endanger persons or property, commits a class D felony.

DIVISION XIII

BURGLARY

Section 1301. NEW SECTION. BURGLARY. 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 or area enclosed in such a manner as to provide a place for the keeping of valuable property secure from theft or criminal mischief, such occupied structure or place not being open to the public, or who remains therein after it is closed to the public or after his right, license or privilege to be there has expired, or any person having such intent who breaks an occupied structure or other place where anything of value is kept, commits burglary.

Sec. 1302. NEW SECTION. BURGLARY IN THE FIRST DEGREE. A person commits burglary in the first degree if, while perpetrating a burglary, he has in his possession an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts physical injury on any person. Burglary in the first degree is a class B felony.

Sec. 1303. NEW SECTION. BURGLARY IN THE SECOND DEGREE. All burglary which is not burglary in the first degree is burglary in the second degree. Burglary in the second degree is a class C felony.

Sec. 1304. NEW SECTION. 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, shall be guilty of possessing burglar's tools. Possessing burglar's tools is a class C felony.

DIVISION XIV

THEFT

Section 1401. NEW SECTION. THEFT. A person commits theft when he does any of the following:

1. Takes possession or control of the property of an-

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other, or property in the possession of another, with the intent to deprive the other thereof.

2. Misappropriates property which he has in trust, or property of another which he has in his 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 his own use, when the owner of such property is known to him.

Failure by a bailee or lessee of personal property to return the property within 72 hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation.

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.

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 his purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer. The fact that he is found in possession of property which has been stolen from two or more persons on separate occasions, or that he 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, shall be evidence from which the court or jury may infer that he knew or believed that the property had been stolen.

5. Takes or disposes of property in which someone else has a security interest, with intent to defraud the secured party.

6. Makes any check, draft, or written order on any bank, person or corporation, and obtains property in exchange there-

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for, if he knows that such check, draft or written order will not be paid when presented. 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 his 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 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.

7. Makes any check, draft, or written order on any bank, person or corporation, and obtains property in exchange therefor, if he knows that such check, draft or written order will not be paid when presented. 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.

8. Any act that is declared to be theft by any provision of the Code.

Sec. 1402. NEW SECTION. DEGREES OF THEFT.

1. The theft of property exceeding five 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 any property not exceeding five thousand dollars in value by one who has before been twice convicted of theft, or the theft by any other person of property exceeding five hundred dollars but not exceeding five thousand dollars in value or theft of a motor vehicle, irrespective of value, is theft in the second degree. Theft in the second degree is a class D felony.

3. The theft of property exceeding one hundred dollars

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but not exceeding five hundred dollars in value is theft in the third degree. Theft in the third degree is an aggravated misdemeanor.

4. The theft of property not exceeding one hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a simple misdemeanor.

Sec. 1403. NEW SECTION. VALUE. The value of property is its normal market or exchange value at the time that it is stolen. If money or property is stolen by a series of

acts from the same person or location, or from different persons by a series of acts which occur in approximately the same location or time period so that the thefts are attributable to a single scheme, plan or conspiracy, such acts shall be considered a single theft and the value shall be the total value of all the property stolen.

Sec. 1404. NEW SECTION. 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 he reasonably believes that he has a right, privilege or license to do so, or if he does in fact have such right, privilege or license.

Sec. 1405. NEW SECTION. INTENT TO DEPRIVE. A person has the intent to deprive another of property, as that term is used in section one thousand four hundred one (1401) of this division, in any case where he takes property from another with the intent to condition the return of such property upon the payment of a reward or other thing of value in return for such property; or when he intends to or does keep the property for such a period of time or intends to or does use it in such a way that the owner is effectively or will be deprived of a substantial portion of the use or enjoyment of such property; provided, that nothing herein shall prevent a finder from claiming any reward which he is permitted by law.

Sec. 1406. NEW SECTION. EVIDENCE OF INTENTION. The fact that any person has concealed unpurchased property of any store or other mercantile establishment, either on the premises or outside the premises of such store, shall be material evidence of intent to deprive the owner thereof, and the findingzof such unpurchased property concealed, upon the person or among the belongings of such person, shall be material evidence of intent to deprive and, if such person conceals, or causes to be concealed, such unpurchased property, upon the person or among the belongings of another, the finding

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of the same shall also be material evidence of intent to deprive on the part of the person concealing such goods.

Sec. 1407. NEW SECTION. LAND. The mere trespass on or occupation of land, contrary to the rights of the owner thereof, is not theft.

Sec. 1408. NEW SECTION. 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 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 a violation of section one thousand four hundred one (1401) of this division.

Sec. 1409. NEW SECTION. FRAUDULENT PRACTICES. A person who does any of the following acts is guilty of a fraudulent practice. A fraudulent practice is an aggravated misdemeanor.

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 any false affidavit or certificate, which is required by law, or which is given in support of any 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 iden-

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tification number, or any owners' identification mark, from any property not his own.

6. For the purpose of soliciting assistance, contributions, or other thing of value, falsely represents himself to be a veteran of the armed forces of the United States, or a member of 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. 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 his own devices.

8. 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.

9. 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.

10. Does any act expressly declared to be a fraudulent practice by any other secion of the Code.

Sec. 1410. NEW SECTION. FRAUD UPON INNKEEPERS AND SERVICE STATIONS.

1. The obtaining of accommodations, including food, lodging, gasoline, and other goods and services from any hotel, motel, or gasoline service station, with intent to defraud the owner or operator thereof is a simple misdemeanor.

2. Either of the following acts shall con-

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stitute presumptive evidence of intent to defraud:

a. Removing a vehicle from the premises of a gasoline service station without making payment for goods or services received, and without having obtained from the owner or operator the right to pay subsequent to leaving the premises.

b. Abandoning the premises of a hotel or motel without making payment for accommodations received, and without having obtained from the owner or operator the right to pay subsequent to leaving the premises.

DIVISION XV

FALSE USE OF A FINANCIAL INSTRUMENT

Sec. 1501. NEW SECTION. FINANCIAL INSTRUMENT DEFINED. A financial instrument is any of the following:

1. A check, bill note, draft, bond receipt, or any writ-

ing which ostensibly evidences an obligation of, or surrender of right or claim by, the person who has purportedly executed it or authorized its execution.

2. Any deed, will or testamentary document, bill of sale, warehouse receipt, bill of lading, or any writing which purports to convey an interest in some property, or to be evidence of or to establish a right in some property.

3. Any letter, credit card, charge plate, or other device which is designed to identify the person tendering such device as one to whom credit may be extended, or as one to whom goods or services may be furnished and charged to the account of another.

4. Any endorsement, acceptance, acknowledgement, codicil, or any writing of any kind upon or ancillary to any financial instrument which does or purports to affect such instrument or the rights or obligations evidenced thereby.

Sec. 1502. NEW SECTION. USE OF FINANCIAL INSTRUMENT DEFINED. One uses a financial instrument when he does any of the following:

1. Makes or executes such instrument or an endorsement thereon, or alters such instrument so as to materially change its nature or the right or obligation which it purports to represent.

2. Tenders or offers such instrument to another in the course of a financial or commercial transaction, with the representation, either express or by implication, that the instrument is what it purports to be and that he is a person who is shown on its face to be one who may rightfully so use such instrument.

3. Possesses such instrument, knowing it to be false or knowingzthat he has no right to use or possess it.

Sec. 1503. NEW SECTION. INTENT AND KNOWLEDGE. The term "intent to obtain fraudulently anything of value" includes the intent to deliver a financial instrument to another, knowing that he intends to use the instrument to obtain

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fraudulently something of value.

One acts with knowledge of facts when he has information which would put a reasonable man on inquiry as to such facts, but acts without making a reasonable inquiry.

Sec. 1504. NEW SECTION. PROOF OF INTENT. The intent to obtain fraudulently anything of value shall not be proved by the mere possession of a falsified financial instrument or a financial instrument which the possessor has no right to use.

Sec. 1505. NEW SECTION. "PERSON" DEFINED. The term "person" as used in this division means a natural person, azfiduciary, a state, a private or public corporation or de facto corporation of any kind, or an officer or agent thereof, and includes fictitious persons or corporations. It is immaterial that any person whom the instrument on its face identifies as having the right to use it, does or does not have such a right, or whether such person does or does not actually exist.

Section 1506. NEW SECTION. FALSE USE OF A FINANCIAL INSTRUMENT. The use of a financial instrument with the intent to obtain fraudulently anything of value by one who knows that the instrument is not what it purports to be, or who knows that he is not the person nor the authorized agent of the person who, as shown on the instrument, has the right to so use the instrument, shall constitute the false use of a financial instrument. False use of a financial instrument is a class C felony.

DIVISION XVI

DAMAGE AND TRESPASS TO PROPERTY

Section 1601. NEW SECTION. CRIMINAL MISCHIEF. Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act.

Sec. 1602. NEW SECTION. MULTIPLE ACTS. Whenever criminal mischief is committed upon more than one item of property

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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.

Sec. 1603. NEW SECTION. CRIMINAL MISCHIEF IN THE FIRST DEGREE. Criminal mischief is criminal mischief in the first degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed is more than five thousand dollars, or if such acts are intended to or do in fact cause a substantial interruption or impairment of 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. Criminal mischief in the first degree is a class C felony.

Sec. 1604. NEW SECTION. CRIMINAL MISCHIEF IN THE SECOND DEGREE. Criminal mischief is criminal mischief in the second degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds five hundred dollars but does not exceed five thousand dollars. Criminal mischief in the second degree is a class D felony.

Sec. 1605. NEW SECTION. CRIMINAL MISCHIEF IN THE THIRD DEGREE. Criminal mischief is criminal mischief in the third degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, destroyed, or concealed exceeds one hundred dollars, but does not exceed five hundred dollars, or if the property is a deed, will, commercial paper or any civil or criminal process or other instrument having legal effect, or if 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. Criminal mischief in the third degree is an aggravated misdemeanor.

Sec. 1606. NEW SECTION. CRIMINAL MISCHIEF IN THE FOURTH DEGREE. All criminal mischief which is not criminal mischief

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in the first degree, second degree or third degree is criminal mischief in the fourth degree. Criminal mischief in the fourth degree is a simple misdemeanor.

Sec. 1607. NEW SECTION. CRIMINAL TRESPASS.

1. The term "property" shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned.

2. The term "trespass" shall mean one or more of the following acts:

a. Entering upon or in property without justification or without the implied or actual permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without justification, or without the implied or actual permission of the owner, lessee, or person in lawful possession.

b. 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.

c. Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

d. Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon orzthereinzanything animate or inanimate, without the implied or actualzpermission of the owner, lessee, or person in lawful possession.

Sec. 1608. NEW SECTION. PENALTIES.

1. Any person who knowingly trespasses upon the property of another commits a simple misdemeanor.

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2. Any person committing a trespass as defined in section one thousand six hundred seven (1607) of this chapter which results in injury to any person or damage in an amount more than one hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

DIVISION XVII

INJURY TO ANIMALS

Section 1701. NEW SECTION. INJURIES TO ANIMALS. Any person who, having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously administer poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal, shall be guilty of an aggravated misdemeanor.

Sec. 1702. NEW SECTION. CRUELTY TO ANIMALS. Any person who shall impound or confine or cause to be impounded or confined, in any place, any domestic animal, or fowl, or any dog or cat, and fail to supply such animal during confinement with a sufficient quantity of food and water, or who shall torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat, or kill any such animal by any means which shall cause unjustified pain, distress or suffering, whether intentionally or negligently, shall be guilty of a simple misdemeanor.

Sec. 1703. NEW SECTION. EXHIBITIONS AND FIGHTS. A person who arranges, promotes, or stages an exhibition at which any animal is tormented, or any fight between animals or between a man and an animal, or who keeps a place where such exhibitions and fights are staged for the entertainment of spectators, commits a serious misdemeanor.

DIVISION XVIII

OFFENSES AGAINST THE GOVERNMENT

Section 1801. NEW SECTION. INSURRECTION. An insurrection is two 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

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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.

Sec. 1802. NEW SECTION. IMPERSONATING A PUBLIC OFFICIAL. Any person who falsely holds himself out 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.

Sec. 1803. NEW SECTION. 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.

Sec. 1804. NEW SECTION. HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. Any person who willfully prevents or attempts to prevent any public officer or employee from performing his duty commits a serious misdemeanor.

Sec. 1805. NEW SECTION. 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.

DIVISION XIX

OBSTRUCTING JUSTICE

Section 1901. NEW SECTION. INTERFERENCE WITH OFFICIAL ACTS. A person who knowingly resists or obstructs anyone known by him to be a peace officer in the performance of any act which is within the scope of the officer's lawful duty or authority, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal

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process or order of any court, commits a simple misdemeanor, provided, that if, in addition to such acts, he displays in a threatening manner or uses a dangerous weapon, he commits an aggravated misdemeanor.

Sec. 1902. NEW SECTION. REFUSING TO ASSIST OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render him 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.

Sec. 1903. NEW SECTION. OBSTRUCTING PROSECUTION. 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 conceal himself, or to fail to appear when subpoenaed.

3. Leaves the state or conceals himself, when he possesses knowledge material to the subject at issue, and has reasonable grounds to believe that he will be called to provide testimony in the trial of another for a public offense.

Sec. 1904. NEW SECTION. ESCAPE FROM CUSTODY.

1. A person convicted of a felony, or charged with the commission of a felony, who intentionally escapes from any detention facility or institution to which he has been committed by reason of such conviction or charge, or from the custody of any public officer or employee to whom he has been entrusted, commits a class D felony.

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2. A person convicted or charged with a misdemeanor, who intentionally escapes from any detention facility or institution to which he has been committed by reason of such conviction or charge, or from the custody of any public officer or employee to whom he has been entrusted, commits a serious misdemeanor.

3. Any person who has been committed to any institution under the control of the division of adult corrections, or to any jail or correctional institution, who knowingly and voluntarily absents himself from any place where he is required to be, commits a serious misdemeanor.

Sec. 1905. NEW SECTION. PERMITTING PRISONER TO ESCAPE. Any jailer or other public officer or employee who voluntarily permits, aids or abets in the escape of any person in custody by reason of a conviction or charge of any crime, commits a class D felony.

Sec. 1906. NEW SECTION. ASSISTING PRISONER TO ESCAPE. Any person who, not being authorized by law, introduces into any detention facility or correctional institution any weapon, explosive or incendiary substance, rope, ladder, or any instrument or device by which he intends to facilitate the escape of any prisoner, or who knowingly causes any such weapon, explosive or incendiary substance, rope, ladder, instrument or device to come into the possession of any prisoner, commits a class D felony.

Sec. 1907. NEW SECTION. FURNISHING INTOXICANTS TO INMATES. Any person not authorized by law who furnishes or knowingly makes available any intoxicating beverage to any inmate at any detention facility, correctional institution or any institution under the management of the department of social services, or who introduces any intoxicating beverage into the premises of any such institution, commits a simple misdemeanor.

Sec. 1908. NEW SECTION. FURNISHING CONTROLLED SUBSTANCE TO INMATE. Any person not authorized by law who furnishes

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or knowingly makes available any controlled substance to any inmate at any detention facility or correctional institution, or at any institution under the management of the department of social services, or who introduces any controlled substance into the premises of any such institution, commits a class D felony.

DIVISION XX

INTERFERENCE WITH JUDICIAL PROCESS

Section 2001. NEW SECTION. COMPOUNDING A FELONY. A person havingzknowledge 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.

Sec. 2002. NEW SECTION. PERJURY. 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 he made the said 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 he retracts the false statement in the course of the proceedings where it was made before the false statement has substantially affected the proceeding.

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Sec. 2003. NEW SECTION. 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 he 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.

Sec. 2004. NEW SECTION. TAMPERING WITH WITNESSES OR JURORS. A person who offers any bribe to any person who he believes will possibly be summoned as a witness or juror in any judicial or arbitration proceeding, or any legislative hearing, or who makes any threats toward such person or who forcibly or fraudulently detains or restrains such person, with the intent to improperly influence such witness or juror with respect to his testimony or decision in such case, or to prevent such person from testifying or serving in such case, or who, in retaliation for anything lawfully done by any witness or juror in any case, harasses such witness or juror, commits an aggravated misdemeanor.

Sec. 2005. NEW SECTION. USE OF FALSE PROCESS OR RECORDS. Any person who represents any document or paper to be any public record or any civil or criminal process, when he knows such representation to be false, commits a simple misdemeanor.

Sec. 2006. NEW SECTION. 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 him to be guilty commits a serious misdemeanor.

Sec. 2007. NEW SECTION. FAILURE TO APPEAR OR TESTIFY. Any person who willfully fails to appear, or who willfully fails to produce any books, records or papers, when he has been required to do so by the order or subpoena of any commission, administrative board, or other agency of the state

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or any subdivision thereof which has been empowered by law to issue such order or subpoena, or any person who, having appeared before any such commission, board or agency, wrongfully fails to testify as to any matter within his knowledge, commits a simple misdemeanor.

DIVISION XXI

OFFICIAL MISCONDUCT

Section 2101. NEW SECTION. 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.

Sec. 2102. zNEW SECTION. 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 him to be in excess of that authorized by law.

2. Fails to report to the proper officer the receipt or expenditure of public monies, together with the proper vouchers therefor, when such is required of him by law.

3. Requests, demands, or receives from another for performing any service or duty which is required of him by law, or which is performed as an incident of his office or employment, any compensation other than the fee, if any, which he is authorized by law to receive for such performance.

4. By color of his office and in excess of the authority conferred on him 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 detri-

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ment of the state or any subdivision thereof.

6. Fails to perform any duty required of him 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.

Sec. 2103. NEW SECTION. MISUSE OF PUBLIC RECORDS AND FILES. A public officer or employee who, by reason of his 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.

Sec. 2104. NEW SECTION. 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.

DIVISION XXII

BRIBERY AND CORRUPTION

Section 2201. NEW SECTION. BRIBERY. A person who offers, promises or gives anything of value or any benefit to any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or venireman, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board

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of arbitration, with intent to influence the act, vote, opinion, judgment, decision or exercise of discretion of such person with respect to his service in such capacity, or any person serving in such public capacity who shall solicit or knowingly receive any such promise or thing of value given with such intent, commits a class D felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state.

Sec. 2202. NEW SECTION. BRIBERY IN SPORTS. A person who corruptly offers, solicits, gives or receives anything ofzvalue 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 he 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 he 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, use his position or influence to affect the outcome of any such sport, match, or contest or the score thereof.

Sec. 2203. NEW SECTION. BRIBERY OF ELECTOR. A person who offers, promises or gives anything of value or benefit to any elector for the purpose of influencing his vote, in any election authorized by law, or any elector who receives anything of value or any benefit knowing that it was given for such purpose, commits a serious misdemeanor.

Sec. 2204. NEW SECTION. BRIBERY OF ELECTION OFFICIALS. A person who offers, promises or gives anything of value or any benefit to any precinct election official authorized by law, or to any executive officer attending the same, conditioned on some act done or omitted to be done contrary to his official duty in relation to such election, commits a serious misdemeanor.

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Sec. 2205. NEW SECTION. IMPROPER VOTING. Any person who does any of the following commits a serious misdemeanor:

1. Votes more than once in any election which may be held by virtue of any law of this state.

2. Votes at any election authorized by law, knowing himself not to be qualified.

Sec. 2206. NEW SECTION. MISCONDUCT BY ELECTION OFFICIAL. A precinct election official who knowingly does any of the following commits a serious misdemeanor:

1. Furnishes a voter with a ballot other than the proper ballot to be used at that election.

2. Causes a voter to cast his vote contrary to his intention or wishes.

3. Changes any ballot, or in any way causes any vote to be recorded contrary to the intent of the person casting that vote.

4. Makes or consents to any false entry on the list of voters or poll books.

5. Places or permits another election official to place into a ballot box anything other than a ballot as provided in section forty-nine point eighty-five (49.85) of the Code, or who permits any person other than an election official to place anything into a ballot box.

6. Takes out of a ballot box, or permits to be so taken out, any ballot deposited therein, except in the manner prescribed by law.

7. Destroys or alters any ballot which has been given to an elector.

8. Permits any person to vote in a manner prohibited by law.

9. Refuses or rejects the vote of any qualified voter.

10. Wrongfully does any act or refuses to act for the purpose of avoiding an election, or of rendering invalid the ballots cast from any precinct or other district.

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11. Having been deputized to carry the poll books of any election to the place where they are to be canvassed, willfully or negligently fails to deliver them to such place,

safe, with seals unbroken, and within the time specified by law.

Sec. 2207. NEW SECTION. DURESS TO PREVENT VOTING. A person who unlawfully and by force, or threats of force, prevents or endeavors to prevent an elector from giving his vote at any public hearing commits an aggravated misdemeanor.

Sec. 2208. NEW SECTION. PROCURING VOTE BY DURESS. A person who procures, or endeavors to procure the vote of an elector for or against any candidate by means of violence, threats of violence or by any means of duress commits an aggravated misdemeanor.

DIVISION XXIII

PUBLIC DISORDER

Section 2301. NEW SECTION. RIOT. A riot is three or more persons assembled together in a violent, tumultuous or threatening 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.

Sec. 2302. NEW SECTION. UNLAWFUL ASSEMBLY. An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent, tumultuous or threatening 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, knowing or having reasonable grounds to believe that it is such, commits a simple misdemeanor.

Sec. 2303. NEW SECTION. FAILURE TO DISPERSE. A peace officer may order the participants in a riot or unlawful assembly and persons in the immediate vicinity of a riot or unlawful assembly to disperse. Any person within hearing distance of such command, refuses to obey or willingly fails to obey, commits a simple misdemeanor.

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Sec. 2304. NEW SECTION. DISORDERLY CONDUCT. A person commits a simple misdemeanor when he does any of the following:

1. Engages in fighting or violent, tumultuous or threatening 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.

2. Makes loud and raucous noise in the vicinity of any residence or hospital which causes unreasonable distress to the occupants thereof.

3. Directs abusive epithets or personal insults or makes any threatening or obscene gesture which he knows or reasonably should know is likely to provoke a violent reaction by another.

4. Without lawful authority or color of authority, he disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

5. Knowingly or recklessly creates a hazardous or physically offensive condition by exposing another to any substance which is injurious to persons or property or which is nauseous, irritating, or offensive to any of the senses, or possesses any such substance in any school, or any place or business, entertainment or worship, or any place frequented by the public, with the intent to expose others to it.

6. 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.

7. 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 a public offense.

8. Without authority or justification, he obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

DIVISION XXIV

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WEAPONS

Section 2401. NEW SECTION. OFFENSIVE WEAPONS. An offensive weapon is any device or instrumentality of the following types.

1. 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.

2. A shotgun having a barrel or barrels shorter than eighteen inches in length, or a rifle having a barrel or barrels shorter than sixteen inches in length.

3. Any weapon other than a shotgun or muzzle loading rifle 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.

4. A bomb, grenade, or mine, whether explosive, incendiary, or poison gas; any rocket having a propellant charge of more than four ounces; any missile having an explosive charge of more than one-quarter ounce; or any device similar to any of these.

5. Any part or combination of parts either designed or intended to be used to convert any device into an offensive weapon as described in subsections one (1) through four (4), inclusive, of this section, or to assemble into such an offensive weapon.

Sec. 2402. NEW SECTION. AUTHORITY TO POSSESS. Any of the following is authorized to possess an offensive weapon when his duties or lawful activities require such possession:

1. Any peace officer.

2. Any member of the armed forces of the United States or of the national guard.

3. Any person in the service of the United States.

4. 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.

5. 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.

6. Any correctional officer, serving in an institution under the authority of the division of adult corrections.

Sec. 2403. NEW SECTION. UNAUTHORIZED POSSESSION OF OFFENSIVE WEAPONS. Any person, other than a person authorized herein, who knowingly possesses an offensive weapon commits a class D felony.

Sec. 2404. NEW SECTION. CARRYING WEAPONS. A person who goes armed with a dangerous weapon concealed on or about his person, or who, within the limits of any city, goes armed with a pistol or revolver, or any loaded firearm of any kind, whether concealed or not, or who knowingly carries or transports in a vehicle a pistol or revolver, commits an aggravated misdemeanor, provided that this section shall not apply to any of the following:

1. A person who goes armed with a dangerous weapon in his own dwelling or place of business, or on land owned by him.

2. Any peace officer, when his duties require him to carry such weapons.

3. Any 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 weapons are carried in connection with his duties as such.

4. Any person who for any lawful purpose carries an unloaded pistol, revolver, or other dangerous weapon inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person.

5. Any person who for any lawful purpose carries or transports an unloaded pistol or revolver in any vehicle inside

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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.

6. Any person while he is lawfully engaged in target practice on a range designed for that purpose or while hunting for game in any place designated by local law as a hunting area.

7. Any person who has in his possession and who displays to any peace officer on demand a valid permit to carry weapons which has been issued to him, and whose conduct is within the limits of that permit. No person shall be convicted of a violation of this section if he produces at his trial a permit to carry weapons which was valid at the time of the alleged offense and which would have brought his conduct within this exception if the permit had been produced at the time of the alleged offense.

8. Any correctional officer, when his duties require, serving under the authority of the division of adult corrections.

Sec. 2405. NEW SECTION. PROFESSIONAL PERMITS TO CARRY WEAPONS. A person may be issued a permit to carry weapons when his employment as a security guard, private detective licensed under chapter eighty A (80A) of the Code, bank messenger or other person transporting sums of money, or in police work, reasonably justifies his going armed. Such permits shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder thereof, and shall state the nature of the employment requiring his going armed. A permit so issued shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in such employment, and while going to and from the place of such employment. Any such permit shall expire twelve months after the date when issued. When such employment is terminated, the holder of such permit shall surrender his permit to the issuing officer for cancellation.

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Sec. 2406. NEW SECTION. NONPROFESSIONAL PERMITS. Any person who can reasonably justify his going armed may 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 thereof, and state the reason for the issuance of the permit, and the limits of the authority granted by such permit. All permits so issued shall be for a definite period as established by the issuing officer, but in no event shall exceed a period of twelve months.

Sec. 2407. NEW SECTION. TRAINING PROGRAM. The commissioner of public safety shall devise or may contract with a private organization, or may use a combination of the two to provide for a training program to qualify persons in the safe use of hand guns. The program shall be offered periodically at convenient places about the state. Any person eligible to be issued a permit to carry weapons may enroll in such course. A fee sufficient to cover the cost of the program shall be established by the commissioner, and charged each person attending. Certificates of completion, on a form prescribed and published by the commissioner of public safety, shall be issued to each person who successfully completes the program. No person shall be issued either a professional or nonprofessional permit unless he has received a certificate of completion or is a certified peace officer. No peace officer or correctional officer, except a certified peace officer, shall go armed with a pistol or revolver unless he has received a certificate of completion, provided that this requirement shall not apply to persons who are employed in this state as peace officers on the effective date of this Act until six months after the effective date of this Act, or to peace officers of other jurisdictions exercising their legal duties within this state.

Sec. 2408. NEW SECTION. PERSONS ELIGIBLE. No person

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shall be issued a professional or nonprofessional permit to carry weapons unless:

1. He is eighteen years of age or older.

2. He has never been convicted of a forcible felony.

3. He is not addicted to the use of alcohol or any controlled substance.

4. He has no history of repeated acts of violence.

Sec. 2409. NEW SECTION. APPLICATION. No person shall be issued a permit to carry weapons unless he has completed and signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall state the full name, social security number, residence, and age of the applicant, and shall state whether the applicant has ever been convicted of a felony, whether he is addicted to the use of alcohol or any controlled substance, and whether he has any history of mental illness or repeated acts of violence. Any person who knowingly makes a false statement on such application commits an aggravated misdemeanor.

Sec. 2410. NEW SECTION. ISSUANCE OF PERMIT. Applications for permits to carry weapons shall be made to the sheriff of the county in which the applicant resides. Applications from 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 issuance of the permit shall be by and at the discretion of the sheriff or commissioner, who shall, before issuing the permit, determine that the requirements of sections two thousand four hundred five (2405) through two thousand four hundred nine (2409), inclusive, of this division have been satisfied. The issuing officer shall collect a fee of three dollars, except from a duly appointed peace officer, for each permit issued. The issuing officer shall notify the commissioner of public safety of the issuance of any permit.

Sec. 2411. NEW SECTION. PERMITS NOT TRANSFERABLE. Permits to carry weapons shall be issued to a specific person only, and may not be transferred from one person to another.

Sec. 2412. NEW SECTION. REPORT AND RECORD OF SALES.

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Any person who sells a revolver or pistol, whether such person is a dealer or otherwise, shall report within seventy-two hours to the county sheriff the sale of such weapon, on forms prescribed and published by the commissioner of public safety, and on the forms shall set forth the time of selling, the age, occupation, place of employment or business, name and residence of such purchaser of such weapon, together with the number, make, and other marks of identification of such weapon, and the sheriff on receipt of such information shall make a permanent record of the same in a book specially kept for that purpose. A copy of this report shall be forwarded by the sheriff to the commissioner of public safety. Any person who fails to make a report as required by this section shall be guilty of a simple misdemeanor.

Sec. 2413. NEW SECTION. GIVING FALSE INFORMATION WHEN PURCHASING WEAPON. A person who gives a false name or presents false identification, or otherwise gives false information to one from whom he seeks to purchase a pistol or revolver, commits an aggravated misdemeanor.

Sec. 2414. NEW SECTION. SALE TO MINORS. A person who sells, loans, gives or makes available a dangerous weapon, or ammunition for a dangerous weapon, to any person below the age of eighteen years commits a simple misdemeanor; provided, that a rifle or shotgun or the ammunition therefor, which lawfully may be used for hunting, and hunting and fishing knives, may be given to such person by his parent or guardian, or by another with the express consent of his parent or guardian; and further provided, that any such person may allow a minor to possess a rifle, shotgun, or pistol, and the ammunition therefor, while on military duty, when such duty requires the possession of such a weapon, or while receiving instruction in the proper use thereof from an adult instructor.

Sec. 2415. NEW SECTION. REVOCATION OF PERMITS. The issuing officer may revoke any permit to carry weapons when he learns that any of the conditions required for the issuance

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of that permit as stated in sections two thousand four hundred five (2405) through two thousand four hundred nine (2409), inclusive, of this division have ceased to exist, or when he learns that that permit was improperly issued. When the issuing officer revokes a permit, he shall notify the permit holder of such revocation on a form prescribed and published by the commissioner of public safety, and shall forward a copy of the form to the commissioner of public safety. From the time the permit holder receives notice of revocation, the permit shall cease to have any force or effect. Permit revocations may be reviewed by writ of certiorari.

Sec. 2416. NEW SECTION. RECORDS KEPT BY COMMISSIONER. The commissioner of public safety shall maintain a permanent record of all permits authorized by this division of permit revocations and reports of sales of weapons required by this division.

Sec. 2417. NEW SECTION. PURCHASE OR SALE OF FIREARMS IN CONTIGUOUS STATES. A resident of Iowa not otherwise precluded by applicable law, may purchase firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories in states contiguous to Iowa. This authorization is enacted in conformance with the Gun Control Act of 1968, 18 U.S.C., section 922 (b) (3) (A). In the event that presently enacted federal restrictions on the purchase of firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories are repealed or set aside by courts of competent jurisdiction, this section shall in no way be interpreted to prohibit or restrict the purchase of firearms, shotguns, rifles, ammunition, reloading components, or firearms accessories by residents of Iowa otherwise competent to purchase the same in contiguous or other states.

A dealer licensed in Iowa may sell or deliver a rifle or shotgun, and a collector licensed in Iowa may sell or deliver a rifle or shotgun if it is a curio or relic, to a resident of an adjacent state, if the purchaser's state of residence

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permits such sale or delivery by law, the sale fully complies with the legal conditions of Iowa and the adjacent state, and the purchaser and licensee have, prior to the sale or delivery for sale of the rifle or shotgun, complied with all the requirements of the federal Gun Control Act of 1968.

Sec. 2418. NEW SECTION. EXISTING PERMITS. Any permit issued by virtue of the authority granted by chapter six hundred ninety-five (695) of the Code prior to the effective date of the repeal of that chapter by this Act shall remain in effect until its normal expiration date.

DIVISION XXV

VICE

Section 2501. NEW SECTION. PROSTITUTION. A person who sells or offers for sale his or her services as a partner in a sex act, or who purchases or offers to purchase such services, commits an aggravated misdemeanor.

Sec. 2502. NEW SECTION. PIMPING. 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 an aggravated misdemeanor.

Sec. 2503. NEW SECTION. PANDERING. A person who persuades or arranges for another to become an inmate of a brothel, or to become a prostitute, such person not having previously engaged in prostitution, or to return to the practice of prostitution after having abandoned it, or who keeps or maintains a brothel or who knowingly takes a share in the income from a brothel, commits a class D felony.

Sec. 2504. NEW SECTION. 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

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knowledge, terminate the tenancy or effectively put an end to such practice of prostitution in such place, commits a serious misdemeanor.

Sec. 2505. NEW SECTION. EXHIBITING DEFORMED OR ABNORMAL PERSONS. Any person who shall exhibit, place on exhibition, or cause to be exhibited any deformed, maimed, idiotic or abnormal person or human monstrosity without his consent, and receive any fee or compensation therefor, commits a serious misdemeanor.

DIVISION XXVI

PROTECTION OF THE FAMILY

Section 2601. NEW SECTION. BIGAMY. Any person, having a living husband or wife, who marries another, commits bigamy. Any of the following is a defense to the charge of bigamy:

1. The prior marriage was terminated in accordance with applicable law, or he reasonably believes on reasonably convincing evidence that the prior marriage was so terminated.

2. He believes, on reasonably convincing evidence, that the prior spouse is dead.

3. He has, for three years, had no evidence by which he can reasonably believe that the prior spouse is alive.

Any person who marries another who he knows has another living husband or wife commits bigamy. Bigamy is a serious misdemeanor.

Sec. 2602. NEW SECTION. INCEST. A person, except a child as defined in this Act, who has sexual intercourse with any person whom he knows to be related to him, either legitimately or illegitimately, as an ancestor, descendent, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, commits incest. Incest is a class D felony.

Sec. 2603. NEW SECTION. ABANDONING CHILD. 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

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or physical disability is not able to care for himself, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect himself or who deserts or abandons such person, knowing or having reason to believe that he will be exposed to such hazard or danger, commits a class C felony.

Sec. 2604. NEW SECTION. NONSUPPORT. A person, who being able to do so, fails or refuses to provide support for his child or ward under the age of eighteen years commits nonsupport; provided that no person shall be held to have violated this section who fails to support any child or ward under the age of eighteen who has left the home of the parent or other person having legal custody of him without the consent of that parent or person having legal custody of him. 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. Nonsupport is a class D felony.

Sec. 2605. NEW SECTION. WANTON NEGLECT OF A CHILD. A person who is the parent or adoptive parent of any child under the age of eighteen years commits wanton neglect of a child when he does any of the following:

1. He knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of such child.

A parent or adoptive parent who provides his or her child exclusively with nonmedical treatment by a religious method of healing permitted under the laws of this state shall not, for this reason alone, be considered in violation of this subsection.

3. He abandons such child to fend for himself, knowing that the child is unable to do so.

Wanton neglect of a child is a serious misdemeanor.

Sec. 2606. NEW SECTION. WANTON NEGLECT OF A RESIDENT OF A HEALTH CARE FACILITY. A person commits wanton neglect of a resident of a health care facility when the

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person knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a resident of a health care facility as defined in section one hundred thirty-five C point one (135C.1) of the Code. Wanton neglect of a resident of a health care facility is a serious misdemeanor.

DIVISION XXVII

HEALTH, SAFETY AND WELFARE

Section 2701. NEW SECTION. 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 he 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.

Sec. 2702. NEW SECTION. FIREWORKS. The term "fireworks" shall mean and include 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 shall include blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance. The term "fireworks" shall not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, no flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, nor toy snakes which contain no mercury. Except as hereinafter provided, any person, firm, copartnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any fireworks, commits a serious misdemeanor; provided the council of any city or town or the trustees of any township may, upon application in writing, grant a permit for the display of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by such city, town, or township authorities when such fireworks display will be handled by a competent operator but no such permit shall be required for such display of fireworks at the Iowa state fairgrounds by the Iowa state fair board nor of incorporated county fairs nor of district fairs receiving state aid. Sales of fireworks for such display

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may be made for that purpose only; provided further, that nothing in this section shall be construed to prohibit any resident, dealer, manufacturer, or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same 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; and provided further that nothing in this section shall apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

Sec. 2703. NEW SECTION. ABANDONED OR UNATTENDED REFRIGERATORS. Any person who abandons or otherwise leaves unattended any refrigerator, ice box, 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 his possession or control, abandoned or unattended and so accessible to children, commits a simple misdemeanor.

Sec. 2704. NEW SECTION. 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.

Sec. 2705. NEW SECTION. OBSTRUCTING EMERGENCY PHONE CALLS. An emergency call is any call to a fire department or police department for aid, or a call for medical aid or ambulance service, when human life or property is in jeopardy and the prompt summoning of aid is essential. Any person who fails to relinquish any telephone or telephone line which he is using when informed that such phone or line is needed for an emergency call commits a simple misdemeanor.

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Sec. 2706. NEW SECTION. 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.

Sec. 2707. NEW SECTION. PUBLICATION REQUIRED. Every telephone company doing business in this state shall print a copy of sections two thousand seven hundred five (2705) and two thousand seven hundred six (2706) of this division 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.

Sec. 2708. NEW SECTION. ELECTRONIC AND MECHANICAL EAVESDROPPING. 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; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.

DIVISION XXVIII

OBSCENITY

Section 2801. NEW SECTION. DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Obscene material" is any material depicting or describing the genitals, sex acts, masturbation, excretory functions or sado-masochistic abuse which the average person, taking the material as a whole and applying contemporary

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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.

2. "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 statute or other figure, or any recording, transcription or mechnical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

3. "Disseminate" means to transfer possession, with or without consideration.

4. "Knowingly" means being aware of the character of the matter.

5. "Sado-masochistic 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.

6. "Minor" means any person under the age of eighteen.

7. "Sex act" means any sexual contact, actual or simulated, between two or more persons, either natural or deviate, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth and genitalia or anus, or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

Sec. 2802. NEW SECTION. DISSEMINATION AND EXHIBITION OF OBSCENE MATERIAL TO MINORS. Any person, 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 of a serious misdemeanor.

Sec. 2803. NEW SECTION. ADMITTING MINORS TO PREMISES WHERE

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OBSCENE MATERIAL IS EXHIBITED. Any person who knowingly sells, gives, delivers, or provides a minor with a pass or admits a minor to premises where obscene material is exhibited is guilty of a public offense and shall upon conviction be guilty of a serious misdemeanor.

Sec. 2804. NEW SECTION. 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 his county to minors he 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 division.

Sec. 2805. NEW SECTION. EXEMPTIONS FOR PUBLIC LIBRARIES AND EDUCATIONAL INSTITUTIONS. Nothing in this division 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 division prohibits the attendance of minors at an exhibition or display of art works or the use of any materials in any public library.

Sec. 2806. NEW SECTION. SUSPENSION OF LICENSES OR PERMITS. Any person who knowingly permits a violation of section two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter to occur on premises under his control shall have all permits and licenses issued to him 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 two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter.

Sec. 2807. NEW SECTION. EVIDENCE CONSIDERED. At a trial

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for violation of section two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter 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.

Sec. 2808. NEW SECTION. 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 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.

Sec. 2809 NEW SECTION. UNIFORM APPLICATION. In order to provide for the uniform application of the provisions of this division 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 division, 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, whether enacted before or after this Act, shall be or become void, unenforceable and of no effect upon the effective date of this Act.

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CHAPTER 2

DIVISION I

CRIMINAL PROCEDURE SCOPE AND DEFINITIONS

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the "Iowa code of criminal procedure".

Sec. 102. NEW SECTION. SCOPE. The provisions of this code shall govern procedure in the courts of Iowa in all criminal proceedings except where a different procedure is specifically provided by law.

Sec. 103. NEW SECTION. GENERAL PURPOSES. The provisions of this code 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.

Sec. 104. NEW SECTION. GENERAL DEFINITIONS. For the purposes of this Act, unless the context otherwise requires:

1. "Attorney general" includes an authorized assistant of the attorney general.

2. "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.

3. "County attorney" includes an authorized assistant of the county attorney.

4. "Court" means a place where justice is administered by a magistrate and includes such magistrate while acting

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in his judicial capacity.

5. "Criminal proceeding" is a proceeding in which a person is accused of a public offense.

6. "Magistrate" means all judges of the district court, including district associate judges and judicial magistrates throughout the state.

7. "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 policemen of cities and towns.

c. Special agents appointed by the commissioner of public safety and members of the department of public safety, except members of the clerical force, as defined in section eighty point nine (80.9) subsection two (2) of the Code.

d. Probation and parole agents acting pursuant to sections two hundred forty-seven point twenty (247.20) and chapter three (3), section five hundred two (502) of this Act.

e. Probation officers acting pursuant to section two hundred thirty-one point ten (231.10) of the Code.

f. Employees of the director of the department of general services pursuant to section nineteen B point twelve (19B.12), subsection two (2) of the Code.

g. Special security officers employed by board of regent's institutions as set forth in section two hundred sixty-two point thirteen (262.13) of the Code.

h. Conservation officers as authorized by section eighty B point three (80B.3) of the Code.

i. Such persons as may be otherwise so designated by law.

8. "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

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or substitute prosecutor whose appearance is approved by a court having jurisdiction to try the defendant for the offense with which he is charged. In the case of prosecution for a municipal ordinance violation, "prosecuting attorney" means a city attorney or an assistant city attorney.

9. 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.

10. "Indigent" is a person with insufficient resources as defined in section three hundred thirty-six A point four (336A.4) of the Code.

DIVISION II

LIMITATION OF CRIMINAL ACTIONS

Section 201. NEW SECTION. CRIMINAL HOMICIDE. A prosecution for criminal homicide in the first or second degree may be commenced at any time after the death of the victim.

Sec. 202. NEW SECTION. EIGHTEEN-MONTH LIMITATION. An indictment or information for sexual abuse or its attempt shall be found within eighteen months after its commission.

Sec. 203. NEW SECTION. THREE-YEAR LIMITATION. In all cases, except those enumerated in sections two hundred one (201) and two hundred two (202) of this division, an indictment or information for a felony or aggravated misdemeanor shall be found within three years after its commission.

Sec. 204. NEW SECTION. ONE-YEAR LIMITATION. A prosecution for a simple or serious misdemeanor or violation of a municipal or county rule or ordinance shall be commenced within one year after its commission.

Sec. 205. NEW SECTION. EXTENSION FOR FRAUD, FIDUCIARY BREACH. If the period prescribed in sections 202, 203 and 204 of this division has 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

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party or by a person who has legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

Sec. 206. NEW SECTION. PERIODS EXCLUDED FROM LIMITATION.

1. When a person leaves the state with the intention of avoiding prosecution, the indictment or prosecution may be found or commenced within the time herein limited after his 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.

Sec. 207. NEW SECTION. CONTINUING CRIMES. When an offense is based on a series of acts committed at different times, the period of limitation prescribed by this division shall commence upon the commission of the last of such acts.

Sec. 208. NEW SECTION. TIME OF FINDING INDICTMENT AND INFORMATION. Within the meaning of this division:

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.

Sec. 209. NEW SECTION. 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 same 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 division.

DIVISION III

JURISDICTION OF PUBLIC OFFENSES AND PLACE OF TRIAL

Section 301. NEW SECTION. STATE CRIMINAL JURISDICTION.

1. A person is subject to prosecution in this state for an offense which he commits within or outside this state, by his own conduct or that of another for which he 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

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a conspiracy to commit an offense within this state.

d. 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.

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 homicide victim is found within the state, the death 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.

Sec. 302. NEW SECTION. PLACE OF TRIAL--GENERAL. Criminal actions shall be tried in the county in which the crime is committed, except as otherwise provided by law. All objections to place of trial are waived by a defendent unless he objects thereto prior to trial.

Sec. 303. NEW SECTION. 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

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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 the offense is a traffic offense, section seven hundred fifty-three point twenty (753.20) of the Code shall be applicable.

Sec. 304. NEW SECTION. 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.

DIVISION IV

COMMENCEMENT OF ACTIONS; ARREST; DISPOSITION OF PRISONERS

Section 401. NEW SECTION. ARREST BY WARRANT--COMPLAINT AND CITATION DEFINED. 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 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 issue a warrant for the arrest of such person. A complaint is a statement in writing, under oath or affirmation, made before a magistrate, of the commission of a public offense, and accusing someone thereof. Such complaint may be substantially in the form provided in the Iowa rules of criminal procedure.

Whenever the complaint charges a misdemeanor the magistrate may in his discretion 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 therein.

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The citation may be served in the same manner as an original notice in a civil action.

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, he shall be in contempt of court, and be guilty of a simple misdemeanor. The magistrate may issue a warrant of arrest for the offense originally charged, and institute proceedings in contempt as provided by chapter six hundred sixty-five (665) of the Code.

If after issuing a citation the magistrate becomes satisfied that the person to whom such citation has been directed will not appear, he may at once issue a warrant of arrest without waiting for the date mentioned in the citation.

Sec. 402. NEW SECTION. 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, city, or town where issued, and be signed by the magistrate with his name of office.

Sec. 403. NEW SECTION. 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)."

Sec. 404. NEW SECTION. MANNER OF EXECUTING WARRANT. The warrant may be delivered to any peace officer for execution, and served in any county in the state.

Sec. 405. NEW SECTION. 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 his submission to custody.

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Sec. 406. NEW SECTION. PERSONS AUTHORIZED TO MAKE AN ARREST. An arrest of a defendant pursuant to a warrant may be made by a peace officer; in other cases, arrest of defendants may be made by a peace officer or by a private person.

Sec. 407. NEW SECTION. ARRESTS BY PEACE OFFICERS. A peace officer may make an arrest in obedience to a warrant delivered to him; and without a warrant:

1. For a public offense committed or attempted in his presence.

2. Where a public offense has in fact been committed, and he has reasonable ground for believing that the person to be arrested has committed it.

3. Where he has reasonable ground for believing that an indictable public offense has been committed and has reasonable ground for believing that the person to be arrested has committed it.

4. Where he 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 him that a warrant has been issued and is being held for the arrest of the person to be arrested on a designated charge.

Sec. 408. NEW SECTION. ARREST OF MATERIAL WITNESS. 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.

Sec. 409. NEW SECTION. ARRESTS BY PRIVATE PERSONS. A private person may make an arrest:

1. For a public offense committed or attempted in his presence.

2. When a felony has been committed, and he has reason-

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able ground for believing that the person to be arrested has committed it.

Sec. 410. NEW SECTION. USE OF FORCE BY PEACE OFFICER MAKING AN ARREST. A peace officer, while making a lawful arrest, is justified in the use of any force which he reasonably believes to be necessary to effect the arrest or to defend himself or another from bodily harm while making the arrest. However, he is justified in using deadly force only when he reasonably believes that such force is necessary to prevent death or serious injury to himself or another, or when he reasonably believes that the person being arrested has committed a felony, and reasonably believes that either of the following is true:

1.z The felony was a forcible felony.

2. The person being arrested is armed, or that there is a substantial risk that the person to be arrested will cause death or serious physical injury if his apprehension is delayed.

A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.

Sec. 411. NEW SECTION. USE OF FORCE IN ARREST BY PRIVATE PERSON. A private person who makes or assists another private person in making a lawful arrest is justified in using any force which he reasonably believes to be necessary in making that arrest, provided that he is justified in the use of deadly force intended only to arrest a person whom he has discovered to be participating in a forcible felony, or when he reasonably believes that such force is necessary to prevent serious injury to himself or another.

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 himself could use under the circumstances, provided that, if the arrest is unlawful, the private person

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assisting the officer shall be justified as if the arrest were a lawful arrest, unless he knows that the arrest is unlawful.

Sec. 412. NEW SECTION. USE OF FORCE IN RESISTING ARREST. A person is not authorized to use force to resist an arrest, either of himself or another which he 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 he believes that the arrest is unlawful or the arrest is in fact unlawful.

Sec. 413. NEW SECTION. USE OF FORCE IN PREVENTING AN ESCAPE FROM ARRESTING OFFICER. A peace officer or other person who has an arrested person in his custody is justified in the use of such force to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting such person.

Sec. 414. NEW SECTION. MANNER OF MAKING ARREST. The person making the arrest must inform the person to be arrested of the intention to arrest him, the reason for arrest, of his authority to make it, and that he is a peace officer, if such be the case, and require him to submit to his 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; if acting under the authority of a warrant, the law enforcement officer need not have the warrant in his possession at the time of the arrest, but upon request he shall show the warrant to the person being arrested as soon as possible. If the officer does not have the warrant in his possession at the time of arrest, he shall inform the person being arrested of the fact that a warrant has been issued.

Sec. 415. NEW SECTION. BREAKING AND ENTERING PREMISES.

1. DEMAND TO ENTER. If a law enforcement officer has reasonable cause to believe that a person whom he is authorized to arrest is present on any private premises, he may

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upon identifying himself as such, demand that he 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.

2. ENTRY WITHOUT PRIOR DEMAND. The demand to be admitted required by subsection one (1) of this section need not be made if the officer is in uniform and is arresting pursuant to an arrest warrant, has reasonable cause to believe that a person whom he seeks to arrest for a public offense is present on the premises, and a magistrate has inserted a direction therein, either at the time of issuance or by amendment of the warrant prior to execution, that the officer executing it need not make a demand for admission. The magistrate may so direct only upon proof under oath that if such demand were made, there is probable cause to believe one of the following:

a. That the person to be arrested would escape.

b. That the officer or other person would be subject to harm in effecting the arrest.

Sec. 416. NEW SECTION. TIME OF ARREST. An arrest may be made on any day and at any time of the day or night.

Sec. 417. NEW SECTION. SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as he reasonably finds necessary to aid him in making the arrest.

Sec. 418. NEW SECTION. TAKING WEAPONS. He who makes an arrest may take from the person arrested all weapons which he may have about his person to be disposed of according to law.

Sec. 419. NEW SECTION. COMMUNICATIONS BY ARRESTED PERSONS. Any peace officer or other person having custody of any person arrested or restrained of his 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 his or her family or an attorney of his or her

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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.

Sec. 420. NEW SECTION. INITIAL APPEARANCE BEFORE MAGISTRATE--ARREST BY WARRANT.

1. Any person arrested in obedience to a warrant shall, without unnecessary delay, be taken before the nearest and most accessible magistrate to the place where the arrest occurred and the officer must at the same time deliver to the magistrate the warrant, with his return thereon endorsed and subscribed by him with his official title.

2. Where the offense be bailable, the magistrate shall fix bail giving due consideration to the bail endorsed on the warrant or other conditions stipulated on the warrant for his appearance in the court which issued the warrant; if such person is not released on bail, the magistrate must redeliver to the officer the warrant and the officer shall retain custody of the arrested person until his removal to appear before the magistrate who issued the warrant.

3. If the magistrate who issued the warrant is absent or unable to act, the arrested person shall be taken to the nearest and most accessible magistrate in the judicial district where the offense occurred, and all documents on which the warrant was issued must be sent to such magistrate, or if they cannot be procured, the informant and his witnesses must be subpoenaed to make new affidavits.

Sec. 421. NEW SECTION. INITIAL APPEARANCE BEFORE

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MAGISTRATE--ARREST WITHOUT WARRANT. 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, 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 his affirmation, and such magistrate shall proceed as follows:

1. If the magistrate believes from such complaint that the offense charged is triable in his court, he shall proceed with the case.

2. If the magistrate believes from such complaint that the offense charged is triable in another court, he 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 his appearance at the other court.

Sec. 422. NEW SECTION. 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 him before a magistrate, or deliver him 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.

Sec. 423. NEW SECTION. BAIL--DISCHARGE. Any magistrate or clerk who receives bail as provided for in sections four hundred twenty (420), subsection two (2), and four hundred twenty-one (421), subsection two (2), of this division 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

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the undertaking of bail.

Sec. 424. NEW SECTION. OFFICER'S RETURN. In all cases, the peace officer, when he takes a person committed to him under an order as provided in this division before a magistrate or clerk of the district court, either for the purpose of giving bail, if bail be taken, or for trial or preliminary examination, must make his return on such order, and sign such return with his name of office, and deliver the same to the magistrate or clerk.

Sec. 425. NEW SECTION. 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.

Sec. 426. NEW SECTION. DEPARTMENT OF PUBLIC SAFETY PRISONERS. The sheriff of any county shall accept for custody in the county jail of his respective county any person handed over to him for safekeeping and lodging by any member of the department of public safety.

Sec. 427. NEW SECTION. LEGISLATORS' IMMUNITY FROM ARREST. Senators and representatives in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

Sec. 428. NEW SECTION. DETENTION AND SEARCH IN SHOPLIFTING.

1. Persons concealing property as set forth in chapter one (1), section one thousand four hundred six (1406) of this Act, may be detained and searched by a peace officer, merchant, or a 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 two (2) of this section.

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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 been first obtained.

3. The detention or search under this section by a peace officer, merchant, or merchant's employee shall not render such peace officer, merchant, or merchant's employee liable, in a criminal or civil action, for false arrest or false imprisonment provided the peace officer, merchant, or merchant's employee had reasonable grounds to believe the person detained or searched committed or was attempting to conceal property as set forth in chapter one (1), section one thousand four hundred six (1406) of this Act.

DIVISION V

POLICE CITATIONS

Section 501. NEW SECTION. CONDITIONS. Whenever it would be lawful for a peace officer to arrest a person without a warrant, he may issue a citation instead of making the arrest and taking the person before a magistrate.

Sec. 502. NEW SECTION. 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.

Sec. 503. NEW SECTION. PROCEDURE. Before he is released, the cited person shall sign the citation 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.

Sec. 504. NEW SECTION. 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.

Sec. 505. NEW SECTION. FAILURE TO APPEAR. Any person who willfully fails to appear in court as specified by the citation shall be guilty of a simple misdemeanor.

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DIVISION VI

UNIFORM FRESH PURSUIT LAW

Section 601. NEW SECTION. 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 him on the ground that he 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 he is believed to have committed a felony in this state.

Sec. 602. NEW SECTION. PROCEDURE FOLLOWING ARREST. If an arrest is made in this state by an officer of another state in accordance with the provisions of section six hundred one (601) of this division, he shall without unnecessary delay take the person arrested before a magistrate of 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 he 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 him to bail for such purpose. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

Sec. 603. NEW SECTION. CONSTRUCTION OF STATUTE. Section six hundred one (601) of this division shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

Sec. 604. NEW SECTION. OFFICERS FROM DISTRICT OF COLUMBIA. For the purpose of this division the word "state" shall include the District of Columbia.

Sec. 605. NEW SECTION. DEFINITIONS OF TERMS. The term

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"fresh pursuit" as used in this division 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.

Sec. 606. NEW SECTION. NAME OF ACT. This division may be cited as the "uniform act on fresh pursuit."

DIVISION VII

PROCEEDINGS AGAINST CORPORATIONS

Section 701. NEW SECTION. 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 him, requiring the corporation to appear before him, at a specified time and place, to answer the charge, the time to be not less than twelve days after the issuing of the summons.

Sec. 702. NEW SECTION. 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 (or town) of _____, the _____ day of _____, _____.

G. H. Magistrate"

(or as the case may be.)

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Sec. 703. NEW SECTION. 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.

Sec. 704. NEW SECTION. 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 him, 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.

Sec. 705. NEW SECTION. 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 him with his 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 twelve 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 _____,

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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 (or town) 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.

Sec. 706. NEW SECTION. 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.

Sec. 707. NEW SECTION. 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.

DIVISION VIII

SEARCH AND SEIZURE

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Section 801. NEW SECTION. DEFINITIONS. For purposes of this division, unless the context otherwise requires:

1. "Search warrant" means an order in writing, in the name of the state, signed by a magistrate, and directed to a peace officer or other authorized person commanding him to search a person, premises, or thing.

2. "Affidavit" means a written declaration or statement of fact made under oath, or legally sufficient affirmation, before any person authorized to administer oaths within or without the state.

3. "Administrative inspector" means any person authorized by law to inspect for violations of or compliance with law.

Sec. 802. NEW SECTION. 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 crime or public offense or concealed to prevent a crime or offense from being discovered.

4. For any other property relevant and material as evidence in a criminal prosecution.

5. For administrative inspections pursuant to law.

Sec. 803. NEW SECTION. APPLICATION FOR SEARCH WARRANTS. Any person may make application for the issuance of a search warrant by submitting before any magistrate a written application, supported by his oath or affirmation, and setting forth therein facts, information, and circumstances tending to establish sufficient grounds for granting the application, and probable cause for believing that such grounds exist. The application shall describe the person, place, or thing to be searched with such specificity so as to enable an independent reasonable man with reasonable effort to ascertain and identify such person, place, or thing. The application

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shall describe the property to be seized. If the magistrate thereafter issues the search warrant, he shall endorse on the application the name and address of all persons upon whose sworn testimony he relied to issue such warrant together with the abstract of each witness' testimony, or his affidavit. However, if the grounds for issuance is supplied by an informant, the magistrate shall identify only the peace officer to whom the information was given. The magistrate may in his discretion require that any witness upon whom the applicant relies for information to appear personally and be examined concerning such information.

Sec. 804. NEW SECTION. ISSUANCE. Upon a finding of probable cause for grounds to issue a search warrant, the magistrate shall issue a warrant, signed by him with his name of office, directed to any authorized person, commanding him forthwith to search the named person, place, or thing within the state for the property specified, and bring any property seized before him.

Sec. 805. NEW SECTION. EXECUTION. A search warrant may be executed by any peace officer. In the case of administrative inspections authorized by law, an administrative inspector shall be authorized to secure and execute a search warrant as provided in division nine (IX) of this chapter. 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, he being present and acting. The warrant shall 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.

Sec. 806. NEW SECTION. FORCIBLE EXECUTION. The officer may break into any structure or vehicle where reasonably

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necessary to execute the warrant if, after notice of this authority and purpose his admittance has not been authorized. The officer may use reasonable force to enter a structure or vehicle to execute a search warrant without notice of his authority and purpose in the case of vacated or abandoned structures or vehicles.

The officer executing a search warrant may break restraints when necessary for his own liberation or to effect the release of a person who has entered a place to aid him.

Sec. 807. NEW SECTION. 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 either of the following reasons:

1. To protect himself from attack.

2. To prevent the disposal or concealment of any property subject to seizure described in the warrant.

Sec. 808. NEW SECTION. 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 his return, a complete inventory of the property taken, and state under oath that it is accurate to the best of his knowledge. The magistrate 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.

Sec. 809. NEW SECTION. EVIDENCE. Property seized in the execution of a search warrant shall be safely kept, subject

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to thezorders of any court having jurisdiction to try any offense involved therewith, so long as reasonably necessary to enable its production at trials. Thereafter it shall be disposed of as provided by law.

Sec. 810. NEW SECTION. 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 his authority, or exercises it with unnecessary severity, is guilty of a serious misdemeanor.

DIVISION IX

ADMINISTRATIVE SEARCHES

Section 901. NEW SECTION. WARRANTS TO INSPECT. If the owner or occupant of any property refuses admittance thereto, or if prior to such refusal an administrative inspector demonstrates the necessity for a warrant, any authorized administrative inspector as defined in division eight (VIII) of this chapter may make application under oath or affirmation, before a magistrate for the issuance of a search warrant. Upon proper application, the magistrate may issue such a warrant.

Sec. 902. NEW SECTION. APPLICATION. In the application the inspector shall state that by a search of certain premises, areas, or things designated in the application he may obtain evidence tending to reveal the existence of violations of public health, safety, or welfare requirements imposed by statutes, rules or ordinances established by the state or a political subdivision thereof. The application shall describe the area, premises, or thing to be searched, give the date of the last inspection if known, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection

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has no purpose other than to carry out the purpose of the statute, ordinance, or regulation pursuant to which inspection is made. If an item of property is sought by the inspector, it shall be identified in the application.

Sec. 903. NEW SECTION. WARRANT AND SEARCH. In making inspections and searches pursuant to the authority of this division, administrative inspectors must execute the warrant:

1. Within ten days after its date.

2. In a reasonable manner, and any property seized shall be treated in accordance with the provisions of division eight (VIII) of this chapter.

3. Subject to any restrictions imposed by the statute, ordinance or regulation pursuant to which inspection is made.

Sec. 904. NEW SECTION. OTHER LAWS. Administrative inspection warrants authorized under section two hundred four point five hundred two (204.502) of the Code, shall be issued and executed pursuant to the provisions of that chapter.

DIVISION X

LINEUPS AND NONTESTIMONIAL IDENTIFICATION

Sec. 1001. NEW SECTION. DEFINITION. As used in this division, the term "nontestimonial identification" includes 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.

Section 1002. NEW SECTION. AUTHORITY TO ISSUE ORDER. A nontestimonial identification order authorized by this division may be issued only by a district court judge upon written application of a prosecuting attorney.

Sec. 1003. NEW SECTION. TIME OF APPLICATION. Applications for a nontestimonial identification order under this division may be made prior to the arrest of a suspect. The procedural provisions of this division shall not limit the conduct of lineups or other nontestimonial procedures after arrest.

Sec. 1004. NEW SECTION. BASIS FOR ORDER. An order shall

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issue only on an affidavit or affidavits sworn to before a district court judge and establishing each of the following grounds for the order:

1. That there is probable cause to believe that an offense has been committed.

2. That there are reasonable grounds, not amounting to probable cause to arrest, to suspect that the person named or described in the affidavit committed the offense.

3. That the results of specific nontestimonial identification procedures will be of material aid in determining whether the person named in the affidavit committed the offense.

Sec. 1005. NEW SECTION. ISSUANCE. Upon a showing that the grounds specified in section one thousand three (1003) of this division exists, the judge shall issue an order requiring the person named in the affidavit to appear at a designated time and place for nontestimonial identification. If it appears from the affidavit that a person named or described in the affidavit may, upon service of the order to appear, either flee or alter or destroy the nontestimonial evidence, the judge may direct a peace officer to bring the person before the judge. The judge shall then direct that the designated nontestimonial identification procedures be conducted expeditiously. After such identification procedures have been completed, the person shall be released or charged with an offense.

Sec. 1006. NEW SECTION. MODIFICATION OF ORDER. At the request of the person named in the affidavit, the judge shall modify the order with respect to time and place of appearance whenever it appears reasonable under the circumstances to do so.

Sec. 1007. NEW SECTION. FAILURE TO APPEAR. Any person who fails without adequate excuse to obey an order to appear served upon him pursuant to this division may be held in contempt of the court which issued the order.

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Sec. 1008. NEW SECTION. SERVICE OF ORDER. An order to appear pursuant to this division shall be served by a law enforcement officer. The order shall be served upon the person named or described in the affidavit by delivery of a copy to him personally. Service may be had at any place within the jurisdiction.

Sec. 1009. NEW SECTION. CONTENTS OF ORDER. An order to appear shall be signed by the judge and shall state:

1. That the presence of the person named in the affidavit is required for the purpose of permitting nontestimonial identification procedures in order to aid in the investigation of the offense 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 such procedures will require.

4. The grounds to suspect that the person named in the affidavit committed the offense 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 his 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 his place of residence.

7. That the person, if he fails to appear, 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.

Sec. 1010. NEW SECTION. IMPLEMENTATION OF ORDER. Nontestimonial identification procedures may be conducted by any law enforcement officer or other person designated

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by the judge. The judge may require medical supervision for any test ordered pursuant to this division when he deems such supervision necessary. No person who appears under an order of appearance issued pursuant to this division shall be detained longer than is reasonably necessary to conduct the specified nontestimonial identification procedures unless he is arrested for an offense.

Sec. 1011. NEW SECTION. RETURN. Within thirty days after the nontestimonial identification procedure, a return shall be made to the judge who issued the order setting forth a report of the nontestimonial identification procedures and an analysis thereof from the person named in the affidavit. If, at the time of such return, probable cause does not exist to believe that such person has committed the offense named in the affidavit or any other offense, the judge shall issue an order directing that the products of the nontestimonial identification procedures, and all copies thereof, be destroyed unless otherwise requested by the person.

Sec. 1012. NEW SECTION. 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.

DIVISION XI

BAIL

Section 1101. NEW SECTION. BAILABLE AND NONBAILABLE OFFENSES. 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 a defendant convicted of a class A felony shall not be admitted to bail

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while appealing such conviction or seeking post-conviction relief.

Sec. 1102. NEW SECTION. RELEASE OF DEFENDANTS--CONDITIONS OF BAIL BOND.

1. CONDITIONS FOR RELEASE OF DEFENDANT. All bailable defendants shall be ordered released from custody pending judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of his discretion, that such a release will not reasonably assure the appearance of the defendant as required. 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 which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

a. Place the defendant in the custody of a designated person or organization agreeing to supervise him.

b. Place restrictions on the travel, association or place of abode of the defendant during the period of release.

c. Require the execution of an appearance bond in a specified amount and the deposit with the clerk of court in cash or other qualified security of a sum not to exceed ten percent of the amount of the bond, such deposit to be returned to the defendant upon the performance of the appearances as required in section one thousand one hundred seven (1107) of this division.

d. Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu thereof, provided that, except as provided in section one thousand one hundred one (1101) of this division, bail initially given shall remain valid until final disposition of the offense. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase thereof

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and the defendant must provide the additional undertaking, written or cash, to secure his release.

e. Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the defendant return to custody after specified hours.

2. DETERMINATION OF CONDITIONS. In determining which conditions of release will reasonably assure appearance, 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 his residence in the community, his record of convictions, and his record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

3. STATEMENT TO ALL DEFENDANTS. When a defendant appears before a magistrate pursuant to rule two (2) or rule three (3), rules of criminal procedure, he shall be informed of the defendant's right to have said conditions of release reviewed. If the defendant indicates he 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 he 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.

4. STATEMENT OF CONDITIONS WHEN DEFENDANT IS RELEASED.

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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 his release and shall advise him that a warrant for his arrest will be issued immediately upon such violation.

5. AMENDMENT OF RELEASE CONDITIONS. A magistrate ordering the release of the defendant on any conditions specified in this section may at any time amend his 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 his inability to meet such conditions, the provisions of subsection three (3) of this section shall apply.

6. APPEAL FROM CONDITIONS OF RELEASE.

a. A defendant who is detained, or whose release on a condition requiring him to return to custody after specified hours is continued, after review of his application pursuant to subsections three (3) or five (5) of this section, by a magistrate, other than a district court judge or district associate judge having original jurisdiction of the offense with which he is charged, may make application to a district court 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 to the supreme court. The appeal shall be determined summarily without briefs on the record 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

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appeal from a criminal conviction. The supreme 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 one (1) of this section.

7. 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 his release, if he 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, he shall be guilty of a serious misdemeanor. If the person was released for appearance as a material witness, he shall be guilty of a simple misdemeanor. In addition, nothing herein shall limit the power of the court to punish for contempt.

Sec. 1103. NEW SECTION. RELEASE OF MATERIAL WITNESSES. If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence by subpoena, a magistrate shall impose conditions of release pursuant to section one thousand one hundred two (1102) of this division. The undertakings of witnesses in criminal cases may be forfeited and enforced in like manner as similar undertakings by defendants. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice. Where the

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deposition of a witness is to be taken, release of the witness may be delayed for a reasonable period of time not exceeding seven days until the deposition can be secured pursuant to the Iowa rules of criminal procedure. Material witnesses who are detained shall be confined separately from persons accused or convicted of criminal offenses.

Sec. 1104. NEW SECTION. QUALIFICATION AND EXAMINATION OF SURETY.

1. Insurance companies doing business in this state under the provisions of section five hundred fifteen point forty-eight (515.48), subsection two (2) of the Code, may act as surety. Resident property owners within the state, 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 suretyzpossesses such qualifications.

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.

Sec. 1105. NEW SECTION. 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

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the timezof 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.

Sec. 1106. NEW SECTION. BAIL ON APPEAL. After conviction, upon appeal to the supreme court, the defendant must be admitted to bail, if it be from the judgment imposing a fine, upon the undertaking of bail that he will, in all respects, abide the orders and the judgment of the supreme court upon appeal; if from a judgment of imprisonment, except as provided in section one thousand one hundred one (1101) or division twelve (XII) of this chapter upon the undertaking of bail that the defendant will surrender himself in execution of the judgment and direction of the supreme court, and in all respects abide the orders and judgment of the supreme 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 he is imprisoned, or by the supreme 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 one thousand one hundred two (1102) of this division.

Sec. 1107. NEW SECTION. FORFEITURE OF BAIL.

1. A defendant released pursuant to this division shall appear at arraignment, trial, judgment, or such other proceedings where his appearance is required. If the defendant fails to appear at the time and place when his personal appearance is lawfully required, or to surrender himself in execution of the judgment, the court must direct an entry of such failure to be made of record, and the undertaking of his bail, or the money deposited, is thereupon forfeited. As a part of such entry, except as provided in rule forty-four (44),

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rules of criminal procedure, the court shall direct the sheriff of the county to give ten days' notice in writing to the defendant and his sureties to appear and show cause, if any, why judgment should not be entered for the amount of such bail. zIf such appearance is not made, judgment shall be entered by the court. If such 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, he shall hold the same as funds of his office for a period of sixty days from the date of judgment.

3. The court may, upon application, set aside such judgment if, within sixty days from the date thereof, the defendant shall voluntarily surrender himself to the sheriff of the county, or his bondsmen shall, at their own expense, deliver him to the custody of the sheriff. Such judgment shall not be set aside, however, unless a condition precedent thereto, the defendant and his sureties shall have paid all costs and expenses incurred in connection therewith.

Sec. 1108. NEW SECTION. 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 he has given bail or deposited money in lieu thereof, or otherwise is released pursuant to this division, 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

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may be arrested pursuant to such order, upon a certified copy thereof, in any county of the state.

3. If the order recite, 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.

Sec. 1109. NEW SECTION. SURRENDER OF DEFENDANT.

1. At any time before the forfeiture of his undertaking, the bail may surrender the defendant, or the defendant may surrender himself, 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.

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 bondsmen.

3. For the purpose of surrendering the defendant, the bail, at any time before finally charged and at any place within the state, may arrest the defendant, or, by a written authority endorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

DIVISION XII

CONFINEMENT OF MENTALLY ILL OR DANGEROUS PERSONS

Subdivision I

CRIMES OF VIOLENCE

Section 1201. NEW SECTION. CUSTODY PRIOR TO TRIAL.

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Pursuant to this subdivision the district court may order pretrial detention of specified persons who might be otherwise eligible for release under division eleven (XI) of this chapter. Such detention applies only to persons charged with forcible felonies when one of the following conditions exists:

1. The state certifies by motion that based on such person's pattern of behavior consisting of his past and present conduct, and on the other factors set out in section one thousand one hundred two (1102), subsection two (2) of this chapter, there is no condition or combination of conditions which will reasonably assure the safety of the community.

2. A person charged with one or more forcible felonies for purposes of this division referred to as crimes of violence, has been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged; or the crime of violence was allegedly committed while the person was, with respect to another crime of violence, on bail or other release or on probation, parole, or mandatory release pending completion of a sentence.

3. A person charged with a crime of violence threatens or injures, or attempts to threaten or injure, any prospective witness or juror.

Sec. 1202. NEW SECTION. RIGHT TO HEARING. No person described in section one thousand two hundred one (1201) of this division shall be ordered detained unless the district court judge holds a pretrial detention hearing in accordance with the procedures described in section one thousand two hundred three (1203) of this division. No person shall be confined under the provisions of this subdivision unless the district court judge finds the following:

1. That there is clear and convincing evidence that the person is a person described in section one thousand two hundred one (1201), subsections one (1), two (2) and three (3) of this division.

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2. On the basis of evidence presented to the district court, there is a substantial probability that the person committed the crime of violence with which he is charged.

3. Based on the person's pattern of behavior consisting of his past and present conduct, and on the other factors set out in section one thousand one hundred two (1102), subsection two (2) of this chapter, there is no condition or combination of conditions of release which will reasonably assure the safety of other persons or the community.

When the district court issues an order of detention, it must be accompanied by written findings of fact and the reasons for its entry.

Sec. 1203. NEW SECTION. PROCEDURAL REQUIREMENTS. The following procedures shall apply to pretrial detention hearings held pursuant to this subdivision:

1. The prosecuting attorney may initiate a pretrial detention hearing by ex parte written motion. Upon such motion, the district court may issue a warrant for the arrest of the person.

2. The pretrial detention hearing shall be held immediately upon the person being brought before the district court for such hearing unless the person or the prosecuting attorney moves for a continuance. A continuance granted on motion of the person shall not exceed three calendar days. A continuance on motion of the prosecuting attorney shall be granted only upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

3. The person shall be entitled to representation by counsel, including appointed counsel for indigent persons, and shall be entitled to the right of cross-examination and to present information, to testify, and to present witnesses in his own behalf.

4. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the formal rules of evidence.

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5. Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, subject only to the following exceptions: Such testimony shall be admissible in proceedings under sections one thousand one hundred two (1102), subsection seven (7) and one thousand one hundred nine (1109) of this chapter, and in perjury proceedings.

6. Unless the defendant otherwise requests in writing, the district court shall conduct the hearing as a private hearing, and any order entered shall remain confidential as to the public generally until the conclusion of the trial.

7. Appeals from orders of detention may be taken in the manner provided under section one thousand one hundred two (1102), subsection six (6) of this chapter.

Sec. 1204. NEW SECTION. PERIOD OF DETENTION. The trial of a person detained under this subdivision shall, consistent with the sound administration of justice, be expedited for trial and his case shall be given priority. In the event that the trial of a person confined under this subdivision does not begin within forty days after the start of such person's detention, such person is no longer subject to detention under this subdivision. In such case the district court judge shall order the release of the person in accordance with, and subject to the limitations imposed by, section one thousand one hundred two (1102) of this chapter. The district court judge may also order the release of persons originally confined under this section whenever the district court judge finds that a subsequent event has eliminated the basis for such detention.

Sec. 1205. NEW SECTION. TRANSFER OF PAPERS WHEN CASE BEGINS BEFORE A JUDICIAL MAGISTRATE OR DISTRICT ASSOCIATE JUDGE. When the prosecutor intends to move for an order of detention under this division, any magistrate other than a district court judge before whom a complaint was made against the defendant shall certify and transmit a copy of the

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complaint to a district court judge upon the request of the prosecuting attorney, together with a transcript of any proceedings had on the complaint before the magistrate.

Subdivision II

DETENTION AFTER CONVICTION

Section 1206. NEW SECTION. WHEN DETENTION ALLOWED. When a person is awaiting sentence after conviction of a felony or following sentence of confinement is pursuing an appeal in such case, and the person would be otherwise eligible for release under division eleven (XI) of this chapter, but it appears by clear and convincing evidence that if released he is likely to pose a danger to another person or to the property of others, such person may be detained under the authority of this division.

Sec. 1207. NEW SECTION. HEARING. The provisions of section one thousand two hundred three (1203) of this division relating to procedural requirements shall attend hearings held pursuant to this subdivision, and if the trial court issues an order of detention, it shall be accompanied by written findings of fact and the reasons for its entry. For purposes of such proceedings, the trial court is not divested of jurisdiction by the filing of a notice of appeal. Appeals from orders of detention may be taken in the manner provided under section one thousand one hundred two (1102), subsection six (6) of this chapter.

Subdivision III

MENTAL INCOMPETENCY OF ACCUSED TO STAND TRIAL

Section 1208. NEW SECTION. MENTAL INCOMPETENCY OF ACCUSED. If at any stage of a criminal proceeding it reasonably appears that the defendant is suffering from a mental disorder which prevents him from assisting effectively in his defense, further proceedings must be suspended and a hearing had upon that question.

Sec. 1209. NEW SECTION. CESSATION OF CRIMINAL PROSECUTION. If, upon hearing conducted by the court, the accused is found

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to be incapacitated in the manner described in section one thousand two hundred eight (1208) of this division, no further proceedings shall be taken under the complaint or indictment until his capacity is restored, and, if his release will endanger the public peace or safety, the court must order him committed to the custody of the department of social services.

Sec. 1210. NEW SECTION. EFFECT OF RESTORATION OF MENTAL CAPACITY. If the accused is committed to the department of social services, after the expiration of a period not to exceed six months, the court shall upon hearing review the confinement and determine whether there is a substantial probability the prisoner will regain capacity within a reasonable time. If not, the state shall be directed to institute civil commitment proceedings. When it thereafter appears that he can effectively assist in his defense, that department shall give notice to the sheriff and county attorney of the proper county of such fact, and the sheriff, without delay, must receive and hold him in custody until he is brought to trial or judgment, as the case may be, or is legally discharged, the expense for conveying and returning him, or any other, to be paid in the first instance by the county from which he is sent, but such county may recover the same from another county or municipal body bound to provide for or maintain him elsewhere, and the sheriff shall be allowed for his services the same fees as are allowed for conveying convicts to the penitentiary.

DIVISION XIII

IOWA RULES OF CRIMINAL PROCEDURE

Section 1301. NEW SECTION. PROVISIONS RELATING TO HEARING AND TRIAL IN INDICTABLE CASES.

Rule 1. SCOPE OF RULES AND DEFINITIONS.

1. SCOPE. The rules in this division provide procedures for indictable criminal cases.

2. DEFINITIONS.

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a. "Committing magistrate" means judicial magistrates, district associate judges, and district court judges.

b. "Judicial officer" means justices of the supreme court, district court judges, and committing magistrates.

c. "Unnecessary delay" is any unexcused delay longer than twenty-four hours, and consists of a shorter period whenever a magistrate is accessible and available.

Rule 2. PROCEEDINGS BEFORE THE MAGISTRATE.

1. INITIAL APPEARANCE OF DEFENDANT. An officer making an arrest with or without a warrant shall take the arrested person without unnecessary delay before a committing magistrate as provided by law. When a person arrested without a warrant is brought before a magistrate, a complaint shall be filed forthwith. If the defendant received a citation or was arrested without a warrant, the magistrate shall, prior to further proceedings in the case, make an initial, preliminary determination from the complaint, or from an affidavit or affidavits filed with the complaint or from an oral statement under oath or affirmation from the arresting officer or other person, whether there is probable cause to believe that an offense has been committed and that the defendant has committed it. His decision in this regard shall be entered in the magistrate's record of the case.

2. STATEMENT BY THE MAGISTRATE. The magistrate shall inform a defendant who appears before him after arrest, complaint, summons, or citation of the complaint against him, of his right to retain counsel, of his right to request the assignment of counsel if he is unable to obtain counsel, of the general circumstances under which he may secure pretrial release, and of his right to review of any conditions imposed on his release. The magistrate shall also inform the defendant that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the defendant reasonable time and opportunity to consult counsel.

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3. COUNSEL. From a list approved by the district court judge, the magistrate shall have authority to appoint counsel to represent the defendant in the event the defendant requests representation by counsel and is entitled to same. Counsel will be assigned to assist the defendant only upon a showing as required in section three hundred thirty-six A point four (336A.4) of the Code. Counsel so appointed may make application in the district court for compensation for such services.

4. PRELIMINARY HEARING. The defendant shall not be called upon to plead and the magistrate shall proceed as follows:

a. PRELIMINARY HEARING. The magistrate shall inform the defendant that he is entitled to a preliminary hearing unless he is indicted by a grand jury or a true information is filed against him or unless he waives the preliminary hearing. If the defendant waives preliminary hearing, the magistrate shall order him held to answer in further proceedings. If the defendant does not waive the preliminary hearing, the magistrate shall schedule a preliminary hearing. Such hearing shall be held within a reasonable time but in any event not later than ten days following the initial appearance if the defendant is in custody and no later than twenty days if he is not in custody. Upon showing of good cause, the time limits specified in this paragraph may be extended by the magistrate.

b. PROBABLE CAUSE FINDING. If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the defendant committed it, the magistrate shall order him held to answer in further proceedings. The finding of probable cause shall be based upon substantial evidence, which may be hearsay in whole or

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in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished. The defendant may cross-examine witnesses against him and may introduce evidence in his own behalf.

c. CONSTITUTIONAL OBJECTIONS. Rules excluding evidence on the ground that it was acquired by unlawful means are not applicable. Motions to suppress must be made to the trial court as provided in rule eleven (11).

d. PRIVATE HEARING. The magistrate must also, upon request of the defendant, exclude from the hearing all persons except the magistrate, his clerk, the peace officer who has custody of the defendant, a court reporter, the attorney or attorneys representing the state, the defendant and his counsel.

e. DISCHARGE OF DEFENDANT. If from the evidence it appears that there is no probable cause to believe that an offense has been committed or that the defendant committed it, the magistrate shall dismiss the complaint and discharge the defendant. The discharge of the defendant shall not preclude the government from instituting a subsequent prosecution for the same offense.

f. TRANSMISSION OF MAGISTRATE'S RECORD ENTRIES. After concluding the proceedings the magistrate shall transmit forthwith to the clerk of the district court all papers and recordings in the proceeding.

g. PRELIMINARY HEARING TESTIMONY PRESERVED BY STENOGRAPHER OR TAPE RECORDER: PRODUCTION PRIOR TO TRIAL. Proceedings at the preliminary hearing shall be taken down by a court reporter or recording equipment and shall be made available on the following basis:

(1) On timely application to a magistrate, for good cause shown, and subject to the availability of facilities, the attorney for a defendant in a criminal case may be given the opportunity to have the recorded tape of the hearing on preliminary examination replayed for his information in

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connection with any further hearing or in connection with his preparation for trial.

(2) On application of a defendant addressed to a district court judge, showing that the record of preliminary hearing, in whole or in part, should be made available to his counsel, an order may issue that the clerk make available a copy of the record, or of a portion thereof, to defense counsel. Such order shall provide for prepayment of costs of such record by the defendant unless the defendant makes a sufficient affidavit that he is unable to pay or to give security therefor, in which case the expense shall be paid by the county. The prosecution may move also that a copy of the record, in whole or in part, be made available to it, for good cause shown, and an order may be entered granting such motion in whole or in part, on appropriate terms, except that the government need not prepay costs nor furnish security therefor.

(3) The copy of the record of such proceedings furnished pursuant to subparagraph two (2) of this paragraph may consist of a tape of the recorded proceedings or a stenographic transcript of the proceedings.

If the record is ordered, the court shall specify in its order to the magistrate an appropriate method of making the record available. If, in any circumstance, a typewritten transcript is furnished counsel, a copy thereof shall be filed with the clerk of court.

Rule 3.z THE GRAND JURY.

1. DRAWING GRAND JURORS. At such times as prescribed by the chief judge of the district court in the public interest, the names of the twelve persons constituting the panel of the grand jury shall be placed by the clerk in a container, and after thoroughly mixing the same, in open court the clerk shall draw therefrom seven names, and the persons so drawn shall constitute the grand jury. Should any of the persons so drawn be excused by the court or fail to attend

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on the day designated for their appearance, the clerk shall draw additional names until the seven grand jurors are secured.

If the panel is insufficient to provide and maintain a grand jury of seven members, the panel shall be refilled from the jury box by the clerk of the court under direction of the court; additional grand jurors shall be selected until a grand jury of seven grand jurors is secured, and they shall be summoned in the manner as those originally drawn.

2. CHALLENGE TO GRAND JURY.

a. CHALLENGE TO ARRAY. A defendant held to answer for a public offense may, before the grand jury is sworn, challenge the panel or the grand jury, only for the reason that it was not composed or drawn as prescribed by law. If the challenge be sustained, the court shall thereupon proceed to take remedial action to compose a proper grand jury panel or grand jury.

b. CHALLENGE TO INDIVIDUAL JURORS. A challenge to an individual grand juror may be made before the grand jury is sworn as follows:

(1) By the state or the defendant, because the grand juror does not possess the qualifications required by law.

(2) By the state only because:

(a) He is related either by affinity or consanguinity nearer than in the fifth degree, or stands in the relation of agent, clerk, servant, or employee, to any person held to answer for a public offense, whose case may come before the grand jury.

(b) He is bail for anyone held to answer for a public offense, whose case may come before the grand jury.

(c) He is defendant in a prosecution similar to any prosecution to be examined by the grand jury.

(d) He is, or within one year preceding has been, engaged or interested in carrying on any business, calling, or employment the carrying on of which is a violation of law, and for which the juror may be indicted by the grand jury.

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(3) By the defendant only because:

(a) He is a prosecutor upon a charge against the defendant.

(b) He has formed or expressed such an opinion as to the guilt or innocence of the defendant as would prevent him from rendering a true verdict upon the evidence submitted.

c. DECISION BY COURT. Challenges to the panel or to an individual grand juror shall be decided by the court.

d. MOTION TO DISMISS. A motion to dismiss the indictment may be based on challenges to the array or to an individual juror, if the grounds for challenge which are alleged in the motion of the defendant have not previously been determined pursuant to a challenge asserted by the defendant pursuant to paragraph a or paragraph b of this subsection.

3. DISCHARGING AND SUMMONING JURORS.

a. DISCHARGE. A grand jury, on the completion of its business, shall be discharged by the court. The grand jury shall serve until discharged by the court, and the regular term of service by a grand juror should not exceed one calendar year. However, when an investigation which has been undertaken by the grand jury is incomplete, the court may by order extend the eligibility of a grand juror beyond one year, to the completion of the investigation.

b. SUMMONING JURORS. Upon order of the court the clerk shall issue his precept or precepts to the sheriff, commanding him to summon the grand juror or jurors. Upon a failure of a grand juror to obey such summons without sufficient cause, he may be punished for contempt.

c. EXCUSING JURORS. If the court excuses a juror, the court may impanel another person in place of the juror excused. If the grand jury has been reduced to a less number than seven by reason of challenges to individual jurors being allowed, or from any other cause, the additional jurors required to fill the panel shall be summoned, first, from such of the twelve jurors originally summoned which were not drawn on

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the grand jury as first impaneled, and if they are exhausted the additional number required shall be drawn from the grand jury list. If a challenge to the array is allowed, a new grand jury shall be impaneled to inquire into the charge

against the defendant in whose behalf the challenge to the array has been allowed, and they shall be summoned in the manner prescribed in this rule.

4. OATHS AND PROCEDURE.

a. FOREMAN. From the persons impaneled as grand jurors the court shall appoint a foreman, or when the foreman already appointed is discharged, excused, or from any cause becomes unable to act before the grand jury is finally discharged, an acting foreman may be appointed.

The foreman of the grand jury may administer the oath to all witnesses produced and examined before it.

b. CLERKS AND BAILIFFS. The court may appoint as clerk of the grand jury a competent person who is not a member thereof. In addition thereto the court may, if it deems it necessary, appoint assistant clerks of the grand jury. If no such appointments are made by the court, the grand jury shall appoint as its clerk one of its own number who is not its foreman. In like manner the court may appoint bailiffs for the grand jury to serve with the powers of a peace officer while so acting.

c. OATHS ADMINISTERED TO GRAND JURY, CLERK, AND BAILIFF. The following oath shall be administered to the grand jury: "Do each of you, as the grand jury, solemnly swear or affirm that you will diligently inquire and true presentment make of all public offenses against the people of this state, triable on indictment within this county, of which you have or can obtain legal evidence; you shall present no person throughzmalice, hatred, or ill will, nor leave any unpresented throughzfear, favor, or affection, or for any reward, or the promise or hope thereof, but in all your presentments that you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding?"

Any clerk, assistant clerk, or bailiff appointed by the court must be given the following oath: "Do you solemnly

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swear that you will faithfully and impartially perform the duties of your office, that you will not reveal to anyone its proceedings or the testimony given before it and will abstain from expressing any opinion upon any question before it, to or in the presence or hearing of the grand jury or any member thereof?"

d. SECRECY OF PROCEEDINGS. Every member of the grand jury, and its clerks and bailiffs, shall keep secret the proceedings of that body and the testimony given before it, except as provided in rule thirteen (13). No such person shall disclose the fact that an indictment has been found except when necessary for the issuance and execution of a warrant or summons, and such duty of nondisclosure shall continue until the indicted person has been arrested. The county attorney shall be allowed to appear before the grand jury on his own request for the purpose of giving information or for the purpose of examining witnesses, and the grand jury may at all reasonable times ask the advice of the county attorney or the court. However, neither the county attorney nor any other officer or person except the grand jury may be present when the grand jury is voting upon the finding of an indictment.

e. SECURING WITNESSES AND RECORDS. The clerk of the court must, when required by the foreman of the grand jury or county attorney, issue subpoenas for witnesses to appear before the grand jury. The grand jury is entitled to free access at all reasonable times to county institutions and places of confinement, and to the examination without charge of all public records within the county.

f. MINUTES. The clerk of the grand jury shall take and preserve minutes of the proceedings and of the evidence given before it, except the votes of its individual members on finding an indictment.

g. EVIDENCE FOR DEFENDANT. The grand jury is not bound to hear evidence for the defendant, but may do so, and must

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weigh all the evidence submitted to it, and when it has reason to believe that other evidence within its reach will explain away the charge, it may order the same produced.

h. REFUSAL OF WITNESS TO TESTIFY. When a witness under examination before the grand jury refuses to testify or to answer a question put to him, it shall proceed with the witness before a district court judge, and the foreman shall then distinctly state before a district court judge the question and the refusal of the witness, and if upon hearing the witness the court shall decide that he is bound to testify or answer the question propounded, he shall inquire of the witness if he persists in his refusal, and, if he does, shall proceed with him as in cases of similar refusal in open court.

i. EFFECT OF REFUSAL TO INDICT. If, upon investigation, the grand jury refuses to find an indictment against one charged with a public offense, it shall return all papers to the clerk, with an endorsement thereon, signed by the foreman, to the effect that the charge is ignored. Thereupon the district court judge must order the discharge of the defendant from custody if in jail, and the exoneration of bail if bail be given. Upon good cause shown, the district court judge may direct that the charge again be submitted to the grand jury. Such ignoring of the charge does not prevent the cause from being submitted to another grand jury as the court may direct; but without such direction it cannot be again submitted.

j. DUTY OF GRAND JURY. The grand jury shall inquire into all indictable offenses which may be tried within the county, and present them to the court by indictment.

The grand jury shall meet regularly at times specified by order of the chief judge. In addition to those times, the grand jury shall meet at the request of the county attorney, and the grand jury shall meet at any other time upon the direction of the foreman.

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It is made the special duty of the grand jury to inquire into:

(1) The case of every person imprisoned in the detention facilities of the county on a criminal charge and not indicted.

(2) The condition and management of the public prisons, county institutions and places of detention within the county.

(3) The unlawful misconduct in office in the county of public officers and employees.

Rule 4. INDICTMENT.

1. DEFINED. An indictment is an accusation in writing, found and presented by a grand jury legally impaneled and sworn to the court in which it is impaneled, charging that the person named therein has committed an indictable public offense, punishable on indictment.

2. USE OF INDICTMENT. Criminal offenses in which the punishment exceeds a fine of one hundred dollars or exceeds imprisonment for thirty days may be prosecuted to final judgment either on indictment or on information as provided in rule five (5).

3. EVIDENCE TO SUPPORT. An indictment should be found when all the evidence, taken together, is such as in the judgment of the grand jury, if unexplained, would warrant a conviction by the trial jury; otherwise it should not. An indictment can be found only upon evidence given by witnesses produced, sworn, and examined before the grand jury, or furnished by legal documentary evidence, or upon the stenographic or taped record of evidence given by witnesses before a committing magistrate. If an indictment is found in whole or in part upon testimony taken before a committing magistrate, the clerk of the grand jury shall write out a brief minute of the substance of such evidence, and the same shall be returned to the court with the indictment.

4. VOTE NECESSARY. An indictment cannot be found without the concurrence of five grand jurors. Every indictment must be endorsed "a true bill" and the endorsement signed by the foreman of the grand jury.

5. PRESENTATION AND FILING. An indictment, when found by the grand jury and properly endorsed, shall be presented to the court with the minutes of evidence of the witnesses relied on. The presentation shall be made by the foreman of the grand jury in the presence of the members of the grand

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jury. The indictment, minutes of evidence, and all exhibits relating thereto shall be transmitted to the clerk of the court and filed by the clerk.

6. MINUTES.

a. A minute of evidence shall consist of a notice in writing stating the name, place of residence, and occupation of the witness upon whose testimony the indictment is found, and a full and fair statement of the witness' testimony before the grand jury.

b. COPY TO DEFENSE. Such minutes of evidence shall not be open for the inspection of any person except the judge of the court, the county attorney, or the defendant and his counsel. The clerk of the court must, on demand made, furnish the defendant or his counsel a copy thereof without charge.

c. MINUTES USED AGAIN. A grand jury may consider minutes of testimony previously heard by the same or another grand jury. In any case, a grand jury may take additional testimony.

7. CONTENTS OF INDICTMENT. An indictment is a plain, concise, and definite statement of the offense charged. The indictment shall be signed by the foreman of the grand jury. The names of all witnesses on whose evidence the indictment is found must be endorsed thereon. The indictment may be in the general indictment form set forth in the illustrative table of forms appended to the Iowa rules of criminal procedure. The indictment shall include the following:

a. The name of the accused, if known, and if not known, designation of the accused by any name by which he may be identified.

b. The name of the offense, identifying by number the statutory provision or provisions alleged to have been violated.

c. The time and place of the offense as definitely as can be done.

d. Where the means by which the offense is committed are necessary to charge an offense, a brief statement of the acts

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or omissions by which the offense is alleged to have been committed.

No indictment is invalid or insufficient, nor can the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in a matter of form which does not prejudice a substantial right of the defendant.

8. AMENDMENT.

a. GENERALLY. The court may, on motion of the state, and before or during the trial, order the indictment or bill of particulars amended so as to correct errors or omissions in matters of form or substance. Amendment may be allowed before or during trial when no substantial rights of the defendant are prejudiced by the amendment, and if a wholly new and different offense is not charged.

b. AMENDMENT BEFORE TRIAL. If the application for an amendment be made before the commencement of the trial, the application and a copy of the proposed amendment shall be served upon the defendant, or upon his attorney of record, and an opportunity given the defendant to resist the same.

c. AMENDMENT DURING TRIAL. If the application be made during the trial, the application and the amendment may be dictated into the record in the presence of the defendant and his counsel, and such record shall constitute sufficient notice to the defendant.

d. CONTINUANCE. No continuance or delay in trial shall be granted because of such amendment unless it appears that defendant should have additional time to prepare because of such amendment.

e. AMENDMENT OF MINUTES. Minutes may be amended in the same manner and to the same extent that an indictment may be amended.

Rule 5. INFORMATION.

1. PROSECUTION ON INFORMATION. All indictable offenses may be prosecuted by a trial information. The prosecuting attorney may at any time, whether or not the grand jury is

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in session, file an information with a district court judge or district associate judge charging a person with an indictable offense.

2. ENDORSEMENT. An information shall be endorsed "a true information" and shall be signed by the prosecuting attorney or in his name by an assistant prosecuting attorney.

3. WITNESS NAMES AND MINUTES. The prosecuting attorney shall, at the time of filing such information, endorse or cause to be endorsed thereon the names of the witnesses whose evidence he expects to introduce and use on the trial of the same, and shall also file with such information a minute of the evidence relating to the guilt of the accused of the offense charged of each witness whose name is so endorsed upon the information.

4. APPROVAL BY JUDGE. The information, before being filed, must be approved by a district court judge having jurisdiction of the offense. If not approved, the charge may be presented to the grand jury for consideration. At any time after judicial approval of an information, and prior to the commencement of trial, the court, on its own motion, may order said information set aside and said case submitted to the grand jury.

5. INDICTMENT RULES APPLICABLE. The information shall be drawn and construed, in matters of substance, as indictments are required to be drawn and construed. The term "indictment" embraces the trial information, and all provisions of law applying to prosecutions on indictments apply also to informations, except where otherwise provided for in these rules, or when the context requires otherwise.

6. INVESTIGATION BY PROSECUTING ATTORNEY. The clerk of the district court, on written application of the prosecuting attorney and the approval of the court, shall issue subpoenas for such witnesses as the prosecuting attorney may require in investigating an offense, and in such subpoenas shall direct the appearance of said witnesses before the prosecuting

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attorney at a specified time and place. Such application and judicial order of approval shall be maintained by the clerk in a confidential file until a charge is filed, in which event disclosure may thereafter be ordered by the court. The prosecuting attorney shall have the authority to administer oaths to said witnesses and shall have the services of the clerk of the grand jury in those counties in which such clerk is regularly employed. The rights and responsibilities of such witnesses shall otherwise be the same as a witness subpoenaed to the grand jury.

Rule 6. PLEADING SPECIAL MATTERS IN INDICTMENTS AND INFORMATIONS--MULTIPLE OFFENSES OR DEFENDANTS; PLEADING PRIOR CONVICTIONS; PLEADING STATUTES.

1. MULTIPLE OFFENSES. When the conduct of a defendant may establish the commission of more than one public offense arising out of the same transaction or occurrence, the defendant may be prosecuted for each of such offenses. Each of such offenses may be alleged and prosecuted as separate counts in a single complaint, information or indictment. Where the public offense which is alleged carries with it certain lesser included offenses, the latter should not be charged, and it is sufficient to charge that the accused committed the public offense.

2. PROSECUTION AND JUDGMENT. Upon prosecution for a crime, the defendant may be convicted of either the crime charged or an included crime, but not both. An included crime may be any of the following:

a. A lesser degree of the same crime;

b. An attempt which is prohibited by statute to commit the crime charged;

c. An attempt which is prohibited by statute to commit a lesser degree of the crime charged; or

d. A crime necessarily proved if the crime charged were proved, and carrying a sentence not in excess of that impossable for the offense charged;

e. A crime designated by statute as a lesser included offense.

In charges of multiple offenses the court, in the interests of justice and for good cause, may in its discretion order that the different offenses or counts set forth in the indictment be tried separately or divided into two or more groups and each of said groups tried separately. Separate judgments shall be rendered on each count on which the accused is tried.

3. DUTY OF COURT TO INSTRUCT. In cases where the crime charged may include some lesser crime it is the duty of the trial court to instruct the jury, not only as to the crime charged but as to all lesser crimes of which the accused might be found guilty under the indictment and upon the evidence adduced, even though such instructions have not been requested or have been objected to.

4. CHARGING MULTIPLE DEFENDANTS.

a. MULTIPLE DEFENDANTS. Two or more defendants may be charged in the same indictment, information, or complaint if they are alleged to have participated in the same act or the same transaction or occurrence out of which the offense or offenses arose. Such defendants may be charged in one or more counts together or separately, and all the defendants need not be charged in each count.

b. PROSECUTION AND JUDGMENT. When an indictment charges a defendant with a felony, and the same indictment charges two or more defendants, those defendants jointly charged may <u>be tried jointly, if in the discretion of the court a joint trial will not result in prejudice to one or more of the parties; otherwise the defendants shall be tried separately.</u>

<u>Where</u> jointly tried, each defendant shall be judged separately on each count.

5. ALLEGATIONS OF PRIOR CONVICTIONS. If the offense charged is one for which the defendant, if convicted, will

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be subject by reason of the Code, to an increased penalty because of prior convictions, the allegation of such convictions, if any, shall be contained in the indictment.

A supplemental indictment shall be prepared for the purpose of trial of the facts of the current offense only, and shall satisfy all pertinent requirements of the Code, except that it shall make no mention, directly or indirectly, of the allegation of the prior convictions, and shall be the only indictment read or otherwise presented to the jury prior to conviction of the current offense. The effect of this subdivision shall be to alter the procedure for trying, in one criminal proceeding, the offenses appropriate to its provisions, and not to alter in any manner the basic elements of an offense as provided by law.

6. PLEADING STATUTES. A pleading asserting any statute of another state, territory or jurisdiction of the United States, or a right derived therefrom, shall refer to such statute by plain designation and if such reference is made, the court shall judicially notice such statute.

Rule 7. PROCEEDINGS AFTER INDICTMENT OR INFORMATION.

1. ISSUANCE. Upon the request of the prosecuting attorney the court shall issue a warrant for each defendant named in the indictment or information. The clerk shall issue a summons instead of a warrant upon the request of the prosecuting attorney or by direction of the court. The warrant or summons shall be delivered to a person authorized by law to execute or serve it. If a defendant fails to appear in response to the summons, a warrant shall issue.

2. FORM.

a. WARRANT. The warrant shall be signed by the judge or clerk; it shall describe the offense charged in the indictment; and it shall command that the defendant shall be arrested and brought before the court. The amount of bail may be fixed by the court and endorsed on the warrant. The warrant may be substantially in the form described in the table of forms to the Iowa rules of criminal procedure. The warrant may be served in any county in the state.

b. SUMMONS. The summons shall be in the form described

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in section four hundred two (402) of this chapter, except that it shall be signed by the clerk.

3. EXECUTION, SERVICE, AND RETURN.

a. EXECUTION OR SERVICE. The warrant shall be executed or the summons served as provided in division four (IV) of this chapter. A summons to a corporation shall be in the form prescribed in section seven hundred five (705) of this chapter. Upon the return of an indictment or upon the filing of trial information against a person confined in any penal institution, the court to which such indictment is returned may enter an order directing that such person be produced before it for trial. The sheriff shall execute such order by serving a copy thereof on the warden having such accused person in custody and thereupon such person shall be delivered to such sheriff and conveyed to the place of trial.

b. RETURN. The officer executing a warrant, or the person to whom a summons was delivered for service shall make return thereof to the court.

Rule 8. ARRAIGNMENT AND PLEA.

1. CONDUCT OF ARRAIGNMENT. Arraignment shall be conducted in open court without unnecessary delay. If the defendant appears for arraignment without counsel, he must, before proceeding therewith, be informed by the court of his right thereto, and be asked if he desires counsel; and if he does, and is unable to employ any, the court must assign him counsel, who shall have free access to him at all reasonable hours. Where the defendant makes an informed waiver of counsel, the court in its discretion may assign standby counsel to assist the accused. Arraignment shall consist of reading the indictment to the defendant or stating to him the substance of the charge and calling on him to plead thereto. The defendant shall be given a copy of the indictment or information before he is called upon to plead.

The defendant must be informed that if the name by which he is indicted or informed against is not his true name, he

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must then declare what his true name is, or be proceeded against by the name in the indictment, and asking him what he answers to the indictment. If he gives no other name or gives his true name, he is thereafter precluded from objecting to the indictment or information upon the ground of being therein improperly named. If he alleges that another name is his true name, the court must direct an entry thereof in the minutes of the arraignment, and the subsequent proceedings on the indictment shall be had against him by that name, and the indictment amended accordingly.

2. PLEAS TO THE INDICTMENT OR INFORMATION.

a. IN GENERAL. A defendant may plead guilty, not guilty, not guilty by reason of insanity, not triable by reason of present insanity, or a former judgment of conviction or acquittal of the offense charged. If the defendant fails or refuses to plead at arraignment, or if the court refuses to accept a guilty plea, the court shall enter a plea of not guilty. At any time before judgment, the court may permit a plea to be withdrawn and other plea or pleas substituted. A defendant who does not plead guilty may enter one or more of the other pleas.

b. PLEAS OF GUILTY. The court may refuse to accept a plea of guilty, and shall not accept such plea without first addressing the defendant personally and determining that the plea is made voluntarily. The defendant shall be informed of the following:

(1) The nature of the charge to which the plea is offered.

(2) The mandatory minimum punishment, if any, and the maximum possible punishment provided by the statute defining the offense to which the plea is offered.

(3) That the defendant has the right to plead not guilty, or to persist in that plea if it has already been made, or to plead guilty.

(4) That if he pleads guilty there will not be a further trial of any kind, so that by pleading guilty he waives the

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right to a trial by jury or otherwise and the right to be confronted with the witnesses against him.

The court shall accept the guilty plea only after determining that the defendant understands these matters, that the plea is not the result of coercion or threats, and that there is a factual basis for same.

3. RECORD OF PROCEEDINGS. A verbatim record of the proceedings at which the defendant enters a plea shall be made and, if there is a plea of guilty, the record shall include, without limitation, the court's advice to the defendant, the inquiry into the voluntariness of the plea including any plea agreement.

Rule 9. PLEA BARGAINING.

1. IN GENERAL. The prosecuting attorney and the attorney for the defendant may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty to a charged offense or to a lesser or related offense, the prosecuting attorney will move for dismissal of other charges, or will recommend or not oppose the imposition of a particular sentence, or will do both.

2. ADVISING COURT OF AGREEMENT. If a plea agreement has been reached by the parties which contemplates entry of a plea of guilty in the expectation that a specific sentence will be imposed or that other charges before the court will be dismissed, the court shall require the disclosure of the agreement in open court at the time the plea is offered. Thereupon the court may accept or reject the agreement, or may defer its decision as to acceptance or rejection until receipt of a presentence report.

3. ACCEPTANCE OF PLEA. If the court accepts the plea agreement, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement or another disposition more favorable to the defendant than that provided for in the plea agreement.

4. REJECTION OF PLEA. If the court rejects the plea

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agreement, the court shall inform the parties of this fact, advise the defendant personally in open court that the court is not bound by the plea agreement, afford the defendant the opportunity to then withdraw his plea, and advise the defendant that if he persists in his guilty plea the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement.

5. INADMISSIBILITY OF PLEA DISCUSSIONS. If a plea discussion does not result in a plea of guilty, or if a plea of guilty is not accepted or is withdrawn, or if judgment on a plea of guilty is reversed on direct or collateral review, neither the plea discussion nor any resulting agreement, plea, or judgment shall be admissible in any criminal or civil action or administrative proceeding.

Rule 10. MOTIONS AND PLEADINGS.

1. PLEADINGS AND MOTIONS. Pleadings in criminal proceedings shall be the indictment and the information, and the pleas entered pursuant to rule eight (8). Demurrers, motions to quash, and motions to set aside are abolished, and defenses and objections raised before trial which heretofore could have been raised under them shall be raised by motion to dismiss, or a motion to grant appropriate relief as the case may be.

2. PRETRIAL MOTIONS. Any defense, objection, or request which is capable of determination without the trial of the general issue may be raised before trial by motion. The following must be raised prior to trial:

a. Defenses and objections based on defects in the institution of the prosecution.

b. Defenses and objections based on defects in the indictment or information (other than that it fails to show jurisdiction in the court or to charge an offense which objections shall be noticed by the court at any time during the pendency of the proceeding).

c. Motions to suppress evidence on the ground that it

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was illegally obtained.

d. Requests for discovery.

e. Requests for a severance of charges or defendants.

3. EFFECT OF FAILURE TO RAISE DEFENSES OR OBJECTIONS. Failure of the defendant to timely raise defenses or objections or to make requests which must be made prior to trial under this rule shall constitute waiver thereof, but the court for cause, upon motion supported by affidavit, may grant relief from such waiver.

4. TIME OF FILING. Motions hereunder, except a motion for a bill of particulars, shall be filed either within thirty days after arraignment or prior to the impaneling of the trial jury, whichever event occurs earlier, unless the period for filing is extended by the court for cause shown.

5. BILL OF PARTICULARS. When an indictment or information charges an offense in accordance with this rule but fails to specify the particulars of the offense sufficiently to fairly enable the defendant to prepare his defense, the court may, on written motion of the defendant, require the county attorney to furnish the defendant with a bill of particulars containing such particulars as may be necessary for the preparation of the defense. A motion for a bill of particulars may be made any time prior to or within ten days after arraignment unless the time be extended by the court for good cause shown. A plea of not guilty at arraignment does not waive the right to move for a bill of particulars if such motion is timely filed within this rule. The county attorney may furnish a bill of particulars on his own motion, or the court may order a bill of particulars without motion. Supplemental bills of particulars may be likewise ordered by the court or voluntarily furnished, or a new bill may be substituted for a bill already furnished. At the trial the state's evidence shall be confined to the particulars of the bill or bills.

6. DISMISSING INDICTMENT OR INFORMATION.

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a. IN GENERAL. If it appears from the bill of particulars furnished pursuant to this rule that the particulars stated do not constitute the offense charged in the indictment or information, or that the defendant did not commit that offense or that a prosecution for that offense is barred by the statute of limitations, the court may and on motion of defendant shall dismiss the indictment or information unless the county attorney shall furnish another bill of particulars which so states the particulars as to show that the particulars constitute the offense charged in the indictment or information and that the offense was committed by the defendant and that it is not barred by the statute of limitations.

b. INDICTMENT. A motion to dismiss the indictment may be made on one or more of the following grounds:

(1) When the minutes of the evidence of witnesses examined before the grand jury are not returned therewith.

(2) When it has not been presented and marked "filed" as prescribed.

(3) When any person other than the grand jurors was present before the grand jury when the question was taken upon the finding of the indictment.

(4) When any person other than the grand jurors was present before the grand jury during the investigation of the charge, except as required or permitted by law.

(5) That the grand jury was not selected, drawn, summoned, impaneled, or sworn as prescribed by law.

c. INFORMATION. A motion to dismiss the information may be made on one or more of the following grounds:

(1) When the minutes of evidence have not been filed with the information.

(2) When the information has not been filed in the manner required by law.

(3) When the information has not been approved as required under rule five (5).

d. TIME OF MOTION. Entry of a plea of not guilty at

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arraignment does not waive the right to move to dismiss the indictment or information if such motion is timely filed within this rule.

7. EFFECT OF DETERMINATION. If the court grants a motion based on a defect in the institution of the prosecution or in the indictment or information, it may also order that the defendant be held in custody or that his bail be continued for a specified period pending the filing of a new indictment or information if the same was dismissed by the court, or the amendment of any such pleading if the defect is subject to correction by amendment. Such period shall be subject to the provisions set forth in division two (II) of this chapter.

8. RULING ON MOTION. A pretrial motion shall be determined before trial. Where factual issues are involved in determining a motion, the court shall state its essential findings on the record.

9. MOTION FOR CHANGE OF VENUE.

a. TIME OF MOTION. A motion for change of venue shall be made as soon as the grounds therefor appear. Such motion may be made before, at, or after arraignment, until the time the jury is impaneled and sworn.

b. GROUNDS. The court upon motion shall transfer the proceeding to another county if the court is satisfied that there exists such prejudice in the original county that a fair and impartial trial cannot be had. If sustained on the ground of excitement and prejudice in the county, it must be transferred to another county in which no such objection exists.

c. SECOND CHANGE. When a change in place of trial has been granted to either the prosecution or the defense, the other party to whom no change has been granted, may, in the county to which the case has been sent, petition for a change in the same manner as though said county was the county in which the case was first pending. In such case, if the change

be granted, the case shall not be sent to the county in which it was originally pending.

d. PROCEEDINGS ON TRANSFER. When a transfer of the case is ordered to another county the clerk shall transmit to the clerk of the court to which the proceeding is transferred all papers in the proceeding or duplicates thereof and any bail taken, and the prosecution shall continue in that county. If the defendant is in custody, the court may order the defendant to be delivered to the sheriff of the county to which transfer of the case is allowed, and upon such delivery with a certified copy of the order therefor, the sheriff last mentioned must receive and detain the defendant. All expenses attendant upon the change of venue and trial, including the costs of keeping the defendant, which shall be allowed by the court trying the case, may be recovered by the county to which the case is transferred from the county in which the prosecution was commenced. The county attorney in the original county shall be responsible for the prosecution in such other county.

10. PLEADINGS OF DEFENDANT.

a. ALIBI.

(1) NOTICE. A defendant who intends to offer evidence of an alibi defense shall, within the time provided for the making of pretrial motions or at such later time as the court shall direct, inform the attorney for the government of such intention and file such notice. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi. In the event that a defendant shall file such notice the attorney for the government shall file and serve upon the defendant the names and addresses of the witnesses the government proposes to offer in rebuttal to discredit the defendant's alibi. Such service shall

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be completed not less than five days after receipt of defendant's witness list, or within such other time as the court may direct. If either party shall fail to abide by the time periods heretofore described, the proponent must move the court for leave to introduce such evidence, showing diligence supported by affidavit.

(2) FAILURE TO COMPLY. Upon the failure of either party to comply with the requirements of this rule, the court shall

exclude the testimony of any witness offered by such party to establish or rebut the defendant's alibi. This rule shall not limit the right of the defendant to testify in his own behalf.

b. INSANITY.

(1) DEFENSE OF INSANITY. If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, he shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, inform the attorney for the government of such intention and file such notice. The court may for good cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

(2) MENTAL DISEASE OR DEFECT INCONSISTENT WITH THE MENTAL ELEMENT REQUIRED FOR THE OFFENSE CHARGED. If a defendant intends to introduce expert testimony relating to a mental disease, defect, or diminished mental capacity, he shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, inform the attorney for the government of such intention and file such notice. The court may for good cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

Rule 11. SUPPRESSION OF EVIDENCE; DISPOSITION OF EVIDENCE OBTAINED BY SEIZURE.

1. MOTION TO SUPPRESS EVIDENCE. A person aggrieved by an unlawful search and seizure may move the district court which has jurisdiction to try the aggrieved person, to suppress for use as evidence anything so obtained on any of the following grounds:

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a. The property was illegally seized without a warrant.

b. The warrant is insufficient on its face.

c. The property seized is not that described in the warrant.

d. There was not probable cause for believing the existence of the grounds on which the warrant was issued.

e. The warrant was illegally executed. The court shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored to its owner or legal custodian unless otherwise subject to lawful detention, and it shall not be admissible in evidence at any hearing or trial.

The motion shall be made before trial or hearing unless opportunity therefore did not exist or the defendant was unaware of the factual grounds for the motion; but the court in its discretion may entertain the motion at the trial or hearing, upon good cause supported by affidavit.

2. TRANSMISSION OF PAPERS TO DISTRICT COURT CLERK. The magistrate who has issued a search warrant shall attach to the warrant a copy of the return, inventory and all other papers in connection therewith and shall file them with the clerk of the district court for the county in which the property was seized.

3. DENIAL OF MOTION: EFFECT. If the motion to suppress is denied and the court finds the property seized to be of the illegal character subject to forfeiture, the court shall forthwith schedule a hearing wherein interested parties may show specific and legal cause why the property should not be forfeited. If no cause be shown, the court shall enter a judgment forfeiting such property to the state after such property is no longer required as evidence.

4. DISPOSITION OF PROPERTY WHETHER SUBJECT OF SUPPRESSION MOTION OR OTHERWISE. Stolen or embezzled property must, after fulfilling its usefulness as evidence, be restored to the owner or otherwise disposed of as provided in chapter six

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hundred forty-five (645) of the Code. Other property shall be disposed of as the court shall in its sound discretion direct. Except where extraordinary circumstances exist, the property shall be restored to its rightful owner. Other dispositions include sale of unclaimed property at public auction with the proceeds distributed to the treasurer of the county to be credited to the county general fund; destruction of dangerous articles; or such other disposition as directed by the court.

5. APPEAL OF INTERLOCUTORY ORDER. Any party aggrieved by an interlocutory order affecting the validity of a search warrant or the suppression of evidence, except in simple misdemeanors, may apply for a writ of certiorari to the supreme court or any justice thereof to review the order in advance of trial.

Rule 12. DEPOSITIONS BY GOVERNMENT OR OTHERS.

1. WHEN TAKEN. Whenever due to special circumstances of the case it is in the interest of justice that the testimony of a prospective witness of a party be taken and preserved for use at trial, the court may upon motion of such party and notice to the parties order that testimony of such witness be taken by deposition and that any designated book, paper, document, record,recording, or other material not privileged, be produced at the same time and place. If a witness is committed as a material witness pursuant to division eleven (XI) of this chapter, the court, or magistrate if the defendant has not yet been held to answer in the district court, may direct that such witness' deposition be taken within the time prescribed by that chapter. The witness shall be discharged within a reasonable time after the deposition has been taken, or at the expiration of the period of detention prescribed in division eleven (XI) of this chapter, whichever earlier occurs.

For purpose of this subsection, special circumstances shall be deemed to exist, and the court

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shall order that depositions be taken, only upon the showing of necessity arising from either of the following circumstances:

a. There is a likelihood that the prospective witness to be deposed will be unavailable at the time of trial.

b. The prospective witness to be deposed has not previously been examined at a preliminary hearing by the party requesting the deposition, and the information sought by way of deposition cannot adequately be disclosed by a bill of particulars and is necessary in order that the defendant receive a fair trial. Upon issuance by the court of an order to take a deposition the moving party must provide, prior to the taking of any deposition, a list of all witnesses expected to be called by the moving party at trial, and those witnesses shall be subject to pre-trial discovery by the nonmoving party. A defendant, however, need not disclose whether or not that defendant intends to testify at trial.

2. NOTICE OF TAKING. The party at whose instance a deposition is to be taken shall give to every party reasonable

written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time or change the place for taking the deposition. The officer having custody of a defendant shall be notified of the time and place set for the examination and shall, unless the defendant waives the right to be present, produce him at the examination and keep him in the presence of the witness during the examination. A defendant not in custody shall have the right to be present at the examination subject to such terms as may be fixed by the court, but his failure, absent good cause shown, to appear after notice and tender of expenses in accordance with subdivision three (3) of this rule shall constitute a waiver of that right and of any objection to the taking and use of the deposition based upon that right.

3. PAYMENT OF EXPENSES. Whenever a deposition is taken at the instance of the prosecuting attorney, or whenever a deposition is taken at the instance of a defendant who is unable to bear the expense of the taking of the deposition, the court may direct that the expenses of travel and subsistence of the defendant and his attorney for attendance at the examination shall be paid from the court expense fund of the county.

4. HOW TAKEN. Subject to such additional conditons as the court shall provide, a deposition shall be taken and filed in the manner provided in civil actions except as otherwise provided in these rules, provided that in no event shall a deposition be taken of a party defendant without his consent, and the scope and manner of examination and cross-examination <u>of all witnesses</u> shall be such as would be allowed in the trial itself. The government shall make available to the defendant or his counsel for examination and use at the taking of the deposition any statement of the witness being deposed which is in the

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possession of the government and to which the defendant would be entitled at the trial.

5. USE. At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible under the rules of evidence, may be used as substantive evidence if the witness is unavailable, as defined in subdivision seven (7) of this rule, or the witness gives testimony at the trial or hearing inconsistent with his deposition. Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only a part of a deposition is offered in evidence by a party, an adverse party may require him to offer all of it which is relevant to the part offered and any party may offer other parts.

6. OBJECTIONS TO DEPOSITION TESTIMONY. Unless reserved by stipulation of the parties, objections to deposition testimony or evidence or parts thereof and the grounds for the objection shall be stated at the time of the taking of the deposition.

7. UNAVAILABILITY. "Unavailable" as a witness includes situations in which the declarant is any of the following:

a. Exempted by ruling of the judge on the ground of privilege from testifying concerning the subject matter of his statement.

b. Persistent in refusing to testify despite an order of the judge to do so.

c. Unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity.

d. Absent from the hearing and beyond the jurisdiction of the court to compel appearance and the proponent of his statement has exercised reasonable diligence but has been unable to procure his attendance.

8. DEPOSITION BY AGREEMENT NOT PRECLUDED. Nothing in this rule shall preclude the taking of a deposition, orally

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or upon written questions, or the use of a deposition, by agreement of the parties.

Rule 13. DISCOVERY.

1. WITNESSES EXAMINED BY THE PROSECUTING ATTORNEY. When a witness subpoenaed by the prosecuting attorney pursuant to rule five (5) is summoned by him after complaint, indictment or information, the defendant shall be present and have the opportunity to cross-examine any witnesses whose appearance before the county attorney is required by this rule.

2. DISCLOSURE OF EVIDENCE BY THE GOVERNMENT UPON DEFENSE MOTION OR REQUEST.

a. DISCLOSURE REQUIRED UPON REQUEST.

(1) Upon pretrial motion of a defendant the court shall order the attorney for the government to permit the defendant to inspect and copy or photograph: Any relevant written or recorded statements made by the defendant or copies thereof, within the possession, custody or control of the government, unless same shall have been included with the minutes of evidence accompanying the indictment or information; the substance of any oral statement made by the defendant which the government intends to offer in evidence at the trial, including any voice recording of same; and the transcript or record of testimony of the defendant before a grand jury, whether or not the government intends to offer same in evidence upon trial.

(2) When two or more defendants are jointly charged, upon motion of any defendant the court shall order the attorney for the government to permit the defendant to inspect and copy or photograph any written or recorded statement of a codefendant which the government intends to offer in evidence at the trial, and the substance of any oral statement which the government intends to offer in evidence at the trial made by a codefendant whether before or after arrest in response to interrogation by any person known to the codefendant to be a government agent.

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(3) Upon motion of the defendant, the court shall order the government to furnish to defendant such copy of his prior criminal record, if any, as is then available to the government.

b. DISCRETIONARY DISCOVERY.

(1) Upon motion of the defendant the court may order the attorney for the government to permit the defendant to inspect, and where appropriate, to subject to scientific tests, items seized by the government in connection with the alleged crime. The court may further allow the defendant to inspect and copy books, papers, documents, statements, photographs or tangible objects which are within the possession, custody or control of the government, and which are material to the preparation of his defense, or are intended for use by the government as evidence at the trial, or were obtained from or belong to the defendant.

(2) Upon motion of a defendant the court may order the attorney for the government to permit the defendant to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, made in connection with the particular case, or copies thereof, within the possession, custody or control of the government.

3. DISCLOSURE OF EVIDENCE BY THE DEFENDANT.

a. DOCUMENTS AND TANGIBLE OBJECTS. If the court grants the relief sought by the defendant under subdivision two (2), paragraph b, subparagraph one (1), of this rule, the court may, upon motion of the government, order the defendant to permit the government to inspect and copy books, papers, documents, statements other than those of the accused, photographs or tangible objects which are not privileged and are within the possession, custody or control of the defendant and which the defendant intends to introduce in evidence at trial.

b. REPORTS OF EXAMINATIONS AND TESTS. If the court grants relief sought by the defendant under subdivision two (2),

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paragraph b, subparagraph one (1), of this rule, the court may, upon motion of the government, order the defendant to permit the government to inspect and copy the results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant and which the defendant intends to introduce in evidence at the trial or which were prepared by a witness whom the defendant intends to call at the trial when such results or reports relate to his testimony.

c. TIME OF MOTION. A motion for the relief provided under subdivision two (2) of this rule shall be made, if at all, within five days after any order granting similar relief to the defendant.

d. FAILURE TO EMPLOY EVIDENCE. When evidence intended for use and furnished under this rule is not actually employed at the trial, that fact shall not be commented upon at trial.

4. CONTINUING DUTY TO DISCLOSE. If, subsequent to compliance with an order issued pursuant to this rule, either party discovers additional evidence, or decides to use evidence which is additional to that originally intended for use, and such additional evidence is subject to discovery under this rule, the party shall promptly notify the other party of the existence of the additional evidence to allow the other party to make an appropriate motion for additional discovery.

5. REGULATION OF DISCOVERY.

a. PROTECTIVE ORDERS. Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted or deferred, or make such other order as is appropriate. In addition to any other grounds for issuing an order pursuant to this paragraph, the court may limit or deny discovery or inspection, or limit the number of depositions to be taken if the court determines that any of the following exist:

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(1) That granting the motion will unfairly prejudice the nonmoving party and will deny that party a fair trial.

(2) That the motion is intended only as a fishing expedition and that granting the motion will unduly delay the trial and will result in unjustified expense.

(3) That the granting of the motion will result in the disclosure of privileged information.

(4) That the granting of the motion will create a probability of fabrication on the part of the moving party.

Upon motion by a party the court may permit a party to make such showing, in whole or in part, in the form of a written statement to be inspected by the judge alone. If the court enters an order granting relief following such a showing, the entire text of the party's statement shall be sealed and preserved in the records of the court to be

made available to the appellate court in the event of an appeal.

b. TIME, PLACE AND MANNER OF DISCOVERY AND INSPECTION. An order of the court granting relief under this rule shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.

c. FAILURE TO COMPLY. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order such party to permit the discovery or inspection, grant a continuance, or prohibit the party from introducing any evidence not disclosed, or it may enter such other order as it deems just under the circumstances.

(1) SECRECY OF GRAND JURY. Except where specific provisions require otherwise, grand jury proceedings remain confidential. However, any member of the grand jury and the clerk thereof, and any officer of the court, may be required by the court or any legislative committee duly authorized to inquire into the conduct or acts of any state officer which might be the basis for impeachment proceedings, to disclose the testimony of a witness examined before the grand jury for the purpose of ascertaining whether it is consistent with that given by him before the court or legislative committee, or to disclose the same upon a charge of perjury against the witness, or when in the opinion of the court or legislative committee such disclosure is necessary in the administration of justice.

No grand juror shall be questioned for anything he may say or any vote he may give in the grand jury relative to a matter legally pending before it, except for perjury of which he may have been guilty in making an accusation, or in giving testimony to his fellow jurors.

Rule 14. SUBPOENAS.

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1. FOR WITNESSES. A magistrate in a criminal action before him, and the clerk of court in any criminal action pending therein, shall issue blank subpoenas for witnesses, signed by him, with the seal of the court if by the clerk, and deliver as many of them as requested to the defendant or his attorney or the attorney for the state. Subpoenas for defendants' witnesses shall show whether they are summoned on the order of the court after a finding that the witness is material and necessary for the defense.

2. FOR PRODUCTION OF DOCUMENTS--DUCES TECUM. A subpoena may contain a clause directing the witness to bring with him any book, writing, or other thing under his control which he is bound by law to produce as evidence. The court on motion may quash or modify the subpoena if compliance would be unreasonable or oppressive.

3. SERVICE. A subpoena may be served in any part of the state. It may be served by any adult person. A peace officer making service in a criminal case must serve without delay in his county, city, or town any subpoena delivered to him for service and make a written return stating the time, place, and manner of service. When service is made by other than a peace officer, proof thereof shall be by affidavit. Service is made by showing the original to the witness and delivering a copy to him. If a witness conceals himself to avoid service of a subpoena, the officer may break open doors or windows for the purpose of making service. A witness who is subpoenaed may demand his fee in advance, except where the subpoena is issued in behalf of the state or under order of court.

4. DEFENDANTS UNABLE TO PAY. Witnesses for the defense may be subpoenaed at the expense of the county only upon the order of the court or the judge thereon before which the case is pending, where there is satisfactory showing that:

a. The witness is material and necessary for the defense.

b. The defendant is financially unable to pay the fees of the witness.

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Witnesses so subpoenaed shall be paid in the same manner that costs and fees are discharged in the case of witnesses subpoenaed in behalf of the government.

c. DEPOSITIONS. An order to take a deposition authorizes the clerk of the court for the county in which the deposition is to be taken to issue subpoenas for the persons named or described therein.

d. SANCTIONS FOR REFUSING TO APPEAR OR TESTIFY. Disobedience to a subpoena without adequate excuse, or refusal to be sworn or to answer as a witness, may be punished by the court or magistrate as a contempt. The attendance of a witness who so fails to appear may be coerced by attachment.

Rule 15. PRETRIAL CONFERENCE.

1. WHEN HELD. Where a plea of other than guilty to an indictment or trial information is entered on behalf of the defendant, the court may order all parties to the action to appear before it for a conference to consider such matters as will promote a fair and expeditious trial.

2. DISCUSSIONS AND RECORD. The conference may explore such matters as amendment of pleadings, agreement to the introduction into evidence of photographs or other exhibits to which there is no objection, submission of requested jury instructions, and any other matters appropriate for discussion which may aid and expedite trial of the case.

3. STIPULATIONS AND ORDERS. The court shall make an order reciting any action taken at the conference which will control the subsequent course of the action relative to matters it includes, unless modified to prevent manifest injustice. A stipulation entered into at such conference shall bind the defendant at trial, on appeal, or in a post-conviction proceeding only if signed by both the defendant and his attorney and filed with the clerk.

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Rule 16. TRIAL BY JURY OR COURT.

1. TRIAL BY COURT ALLOWED. Cases required to be tried by jury shall be so tried unless the defendant waives a jury trial in writing.

2. FINDINGS. In a case tried without a jury the court shall make a general finding. Where requested by any party before or during trial, the court shall find the facts specially and in writing, separately stating its conclusions of law and directing an appropriate judgment. A request for findings is not a condition precedent for review of the judgment.

Rule 17. JURIES.

1. RULES FOR DRAWING. The rules for drawing the jury shall be the same as those provided in civil procedure.

2. COMPLETION OF PANEL. 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.

3. CHALLENGES TO THE PANEL. All the provisions of law relating to challenges to the panel of trial jurors in civil procedure, the grounds therefor, the manner of exercising the same, and the effect thereof, shall apply to the panel of trial jurors in criminal cases.

4. CHALLENGES TO INDIVIDUAL JUROR. A challenge to an individual juror is an objection which may be taken orally, and is either for cause or peremptory.

5. CHALLENGES FOR CAUSE. A challenge for cause may be made by the state or defendant, and must distinctly specify the facts constituting the causes thereof. It may be made for any of the following causes:

a. A previous conviction of the juror of a felony.

b. A want of any of the qualifications prescribed by statute to render a person a competent juror.

c. Unsoundness of mind, or such defects in the faculties of the mind or the organs of the body as render him incapable

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of performing the duties of a juror.

d. Affinity or consanguinity, within the fourth degree, to the person alleged to be injured by the offense charged, or on whose preliminary information, or at whose instance, the prosecution was instituted, or to the defendant, to be computed according to the rule of the civil law.

e. Standing in the relation of guardian and ward, attorney and client, employer and employee, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose preliminary information, or at whose instance, the prosecution was instituted, or in his employ on wages.

f. Being a party adverse to the defendant in a civil action, or having been the prosecutor against or accused by him in a criminal prosecution.

g. Having served on the grand jury which found the indictment.

h. Having served on a trial jury which has tried another defendant for the offense charged in the indictment.

i. Having been on a jury formerly sworn to try the same indictment and whose verdict was set aside, or which was discharged without a verdict after the cause was submitted to it.

j. Having served as a juror, in a civil action brought against the defendant, for the act charged as an offense.

k. Having formed or expressed such an opinion as to the guilt or innocence of the prisoner as would prevent him from rendering a true verdict upon the evidence submitted on the trial.

l. Because of his being bail for any defendant in the indictment.

m. Because he is defendant in a similar indictment, or complainant or private prosecutor against the defendant or any other person indicted for a similar offense.

n. Because he is, or within a year preceding has been,

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engaged or interested in carrying on any business, calling, or employment, the carrying on of which is a violation of law, where the defendant is indicted for a like offense.

o. Because he has been a witness, either for or against the defendant, on the preliminary hearing or before the grand jury.

p. Having requested, directly or indirectly, that his name be returned as a juryman for the regular biennial period.

6. EXAMINATION OF JURORS. Upon examination the jurors shall be sworn. If an individual juror is challenged, he may be examined as a witness to prove or disprove the challenge, and must answer every question pertinent to the inquiry thereon, but his answer shall not afterwards be testimony against him. Other witnesses may also be examined on either side. The rules of evidence applicable to the trial of other issues shall govern the admission or exclusion of testimony on the trial of the challenge, and the court shall determine the law and the fact, and must allow or disallow the challenge.

7. ORDER OF CHALLENGES FOR CAUSE. The state shall first complete its challenge for cause, and the defendant afterwards, until sixteen jurors have been obtained against whom no cause of challenge has been found to exist.

8. ORDER OF CHALLENGES IN GENERAL. The challenges of either party need not be all taken at once, but separately, in the following order, including in each challenge all the causes of challenge belonging to the same class: To the panel; to an individual juror for cause; to an individual juror peremptorily.

9. PEREMPTORY CHALLENGES. Peremptory challenges shall be exercised in the same manner as is provided in the trial of civil actions.

10. PEREMPTORY CHALLENGES--NUMBER. If the offense charged in the indictment or information is or may be punishable with imprisonment for life, the state and defendant shall each

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have the right to peremptorily challenge eight jurors and shall strike two jurors.

If the offense charged be a felony, the state and the defendant shall each have the right to peremptorily challenge four jurors and shall strike two jurors.

If the offense charged be a misdemeanor, the state and the defendant shall each have the right to peremptorily challenge two jurors and shall strike two jurors.

11. MULTIPLE CHARGES. If the indictment charges different offenses in different counts, the state and the defendant shall each have that number of peremptory challenges which they would have if the highest grade of offense charged in the indictment were the only charge.

12. MULTIPLE DEFENDANTS. In a case where more than one defendant is tried, each defendant shall have one-half the number of challenges allowed in subdivision eleven (11) of this rule. The state shall be limited to the challenges and strikes specified in subdivision eleven (11). The defendants collectively shall be limited to two strikes.

13. CLERK TO PREPARE LIST--PROCEDURE. The clerk shall prepare a list of jurors called; and, after all challenges for cause are exhausted or waived, the parties, commencing with the state, shall alternately challenge peremptorily or waive by indicating any such challenge upon the list opposite the name of the juror challenged, or by indicating the number of waiver elsewhere on the list.

14. VACANCY FILLED. After each challenge, sustained for cause, or made peremptorily as indicated on the list, another juror shall be called and examined for challenge for cause before a further challenge is made; and any new juror thus called may be challenged for cause and shall be subject to peremptory challenge or to being struck from the list as other jurors.

15. READING OF NAMES. After all challenges have thus been exercised or waived and four jurors have been struck

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from the list the clerk shall read the names of the twelve jurors remaining who shall constitute the jury selected.

16. JURORS SWORN. When twelve jurors are accepted they shall be sworn to try the issues.

17. ALTERNATE JURORS. The court may impanel one or more alternate jurors whose qualifications, powers, functions, facilities, and privileges shall be the same as regular jurors. After the regular jury is selected, the clerk shall draw the names of three more persons if one alternate juror is desired, or four more persons if two alternate jurors are desired, and so on in like proportion, who are to serve under this rule, who shall be sworn and subject to examination and challenge for cause as provided in this rule. Each party must then strike off one such name, and the one or two or appropriate number remaining shall be sworn to try the case with the regular jury, and sit at the trial. Alternate jurors shall, in the order they were drawn, replace any juror who becomes unable to act, or is disqualified, before the jury retires, and if not so needed shall then be discharged.

Rule 18. TRIAL.

1. ORDER OF TRIAL AND ARGUMENTS.

a. ORDER OF TRIAL. The jury having been impaneled and sworn, the trial must proceed in the following order:

(1) READING INDICTMENT AND PLEA. The clerk or prosecuting attorney must read the indictment or the supplemental indictment as required under the provision of the Code, and state the defendant's plea to the jury.

(2) STATEMENT OF STATE'S EVIDENCE. The prosecuting attorney may briefly state the evidence by which he expects to sustain the indictment.

(3) STATEMENT OF DEFENDANT'S EVIDENCE. The attorney for the defendant may then briefly state his defense, or he may waive the making of such statement; he may reserve the right to make such statement to a time immediately prior to presentation of defendant's evidence.

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(4) OFFER OF STATE'S EVIDENCE. The state may then offer the evidence in support of the indictment.

(5) OFFER OF DEFENDANT'S EVIDENCE. The defendant or his counsel may then offer his evidence in support of his defense.

(6) REBUTTING OR ADDITIONAL EVIDENCE. The parties may then, respectively, offer rebutting evidence only, unless the court, for good reasons, in furtherance of justice, permit them to offer evidence upon their original case.

b. ORDER OF ARGUMENT.

(1) ARGUMENTS. When the evidence is concluded, unless the case is submitted to the jury on both sides without argument, the prosecuting attorney must commence, the defendant follow by one or two counsel, at his option, unless the court permits him to be heard by a larger number, and the prosecuting attorney conclude, confining himself to a response to the arguments of the defendant's counsel. Where two or more defendants are on trial for the same offense, they may be heard by one counsel each.

(2) CLOSING ARGUMENT BY DEFENDANT. When the affirmative of the issue is with the defendant, the court may, in its discretion, award to the defendant the last argument.

2. ADVANCE NOTICE OF EVIDENCE SUPPORTING INDICTMENTS OR INFORMATIONS. The prosecuting attorney, in offering trial evidence in support of an indictment, shall not be permitted to introduce any witness the minutes of whose testimony was not presented with the indictment to the court; in the case of informations, a witness may testify in support thereof if his identity and a minute of the witness' evidence has been given pursuant to these rules. However, these provisions are subject to the following exception: Additional witnesses may be presented by the prosecuting attorney if he has given the defendant's attorney of record, or the defendant if he has no attorney, a minute of such witness' testimony, at least four days before the commencement of the trial.

3. FAILURE TO GIVE NOTICE. Whenever the prosecuting

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attorney desires to introduce evidence to support the indictment, of which he shall not have given four days' notice because of insufficient time therefor since he learned said evidence could be obtained, he may move the court for leave to introduce such evidence, giving the same particulars as in the former case, and showing diligence, supported by affidavit. Except where the evidence goes to merely formal matters, if the court sustains said motion, the defendant shall elect whether said cause shall be continued on his motion, or the witness shall then testify. If said defendant shall not elect to have said cause continued, the prosecuting attorney may examine said witness in the same manner and with the same effect as though four days' notice had been given defendant or his attorney as hereinbefore provided, except the prosecuting attorney, in the examination of witnesses, shall be strictly confined to the matters set out in his motion.

4. REPORTING OF TRIAL. All the provisions relating to mode and manner of the trial of civil actions, report thereof, translation of the shorthand reporter's notes, the making of such reports and translation of the record, and in all other respects, apply to the trial of criminal actions.

5. THE JURY UPON TRIAL.

a. VIEW.

(1) WHEN TAKEN. When the court is of the opinion that it is proper, the jury should view the place in which the offense is charged to have been committed, or in which any other material fact occurred. It may order the jury to be conducted in a body, in the custody of proper officers, to the place, which shall be shown them by a person appointed by the court for that purpose.

(2) ATTENDING OFFICERS. The officers must be sworn to suffer no person to speak to or communicate with the jury on any subject connected with the trial, or to do so themselves, except the person appointed by the court for that

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purpose, and that only to show the place to be viewed, and to return them into court without unnecessary delay at a specified time.

b. JUROR MAY NOT BE WITNESS. A member of the jury may not testify as a witness in the trial of the case in which he is sitting as a juror. If he is called to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

c. ALTERNATE JURORS; SEPARATION AND DELIBERATION OF JURORS. The court may impanel alternate jurors, which may replace jurors originally selected, in the manner provided in civil cases. The jurors shall be kept together unless the court permits the jurors to separate as in civil cases; and the officers having charge of the jury shall suffer no person to communicate with them except as provided for in civil cases.

d. ADMONITION TO JURORS. The jury, whether permitted to separate or kept together in charge of sworn officers, must be admonished by the court that it is their duty not to permit any person to speak to or communicate with them on any subject connected with the trial, and that any and all attempts to do so should be immediately reported by them to the court, and that they should not converse among themselves on any subject connected with the trial, or form or express an opinion thereon, until the cause is finally submitted to them. Said admonition must be given or referred to by the court at each adjournment during the progress of the trial previous to the final submission of the cause to the jury.

e. NOTES TAKEN BY JURORS DURING TRIAL; EXHIBITS USED DURING DELIBERATIONS. No juror shall be permitted to take notes during the testimony of witnesses. Upon retiring

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for deliberations the jury may take with it all papers and exhibits which have been received in evidence, and the court's instructions. Provided, however, the jury shall not take with it depositions, nor shall it take original public records and private documents as ought not, in the opinion of the court, to be taken from the person having them in possession.

f. INSTRUCTIONS. Upon the conclusion of the arguments, the court shall charge the jury in writing, without oral explanation or qualification, stating the law of the case. The rules relating to the instruction of juries in civil cases shall be applicable to the trial of criminal prosecutions. After hearing the charge, the jury may either decide in court or retire for deliberation.

g. REPORT FOR INFORMATION. After the jury has retired for deliberation, if there be any disagreement as to any part of the testimony, or if it desires to be informed on any point of law arising in the cause, it must require the officer to conduct it into court, and, upon its being brought in, the information required may be given, in the discretion of the trial court. Where further information as to the testimony which was given at trial is taken by the jury, this shall be accomplished by the court reporter or other appropriate official reading from the reporter's notes. Where the court gives the jury additional instructions, this shall appear of record. Provided, that the procedures described in this section shall take place in the presence of counsel for the defense and prosecution, or after oral notice to the county attorney and defendant's counsel and provision of an opportunity to same to be present.

h. SEPARATION OF JURORS. On final submission, the jury shall retire for deliberation, and be kept together in charge of an officer until they agree on a verdict or are discharged by the court, unless the court permits the jurors to separate temporarily overnight, on weekends or holidays, or in emer-

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gencies. During their deliberations, the officer in charge must not suffer any communication to be made to them, nor make any himself, except to ask them if they have agreed on a verdict, unless by order of court; nor communicate to any person the state of their deliberations, or the verdict agreed upon before it is rendered.

6. RETRIAL OF DEFENDANTS WHEN ORIGINAL JURY IS DISCHARGED, AND IN OTHER CASES.

a. ILLNESS OF JURORS AND OTHER CASES. The court may discharge a jury because of any accident or calamity requiring it, or by consent of all parties, or when on an amendment a continuance is ordered, or if they have deliberated until it satisfactorily appears that they cannot agree. The case shall be retried immediately or at a future time, as the court directs.

b. LACK OF JURISDICTION; NO OFFENSE CHARGED. The court may also discharge the jury where it appears that it has no jurisdiction of the offense, or that the facts as charged in the indictment do not constitute an offense punishable by law.

c. CRIME COMMITTED IN ANOTHER STATE. If the jury be discharged because the court has not jurisdiction of the offense charged in the indictment, the offense being committed out of the jurisdiction of this state, the defendant must be discharged, or ordered to be retained in custody a reasonable time until the prosecuting attorney shall have a reasonable opportunity to inform the chief executive of the state in which the offense was committed of the facts, and for said officer to require the delivery of the offender.

d. NO OFFENSE CHARGED--RESUBMISSION. If the jury be discharged because the facts set forth do not constitute an offense punishable by law, the court must order the defendant discharged and his bail, if any, exonerated, or, if he has deposited money instead of bail, that the money deposited be refunded, or that any conditions upon his release from

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custody be discharged. If in the court's opinion a new indictment can be framed upon which the defendant can be legally convicted, the court may direct that the case be submitted to the same or another grand jury.

7. THE TRIAL JUDGE.

a. COMPETENCY OF JUDGE AS WITNESS. The judge presiding at the trial shall not testify in that trial as a witness. If he is called to testify, no objection need be made in order to preserve the point.

b. DISABILITY OF TRIAL JUDGE.

(1) DURING TRIAL. If by reason of death, sickness or other disability the judge before whom a jury trial has commenced is unable to proceed with the trial, any other judge regularly sitting in or assigned to the court, upon certifying that he has familiarized himself with the record of the trial, may proceed with and finish the trial.

(2) AFTER VERDICT OR FINDING OF GUILT. If by reason of absence, death, sickness or other disability the judge before whom the defendant has been tried is unable to perform the duties to be performed by the court after a verdict or finding of guilty, any other judge regularly sitting in or assigned to the court may perform those duties; but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

c. ADJOURNMENTS DECLARED BY TRIAL COURT. While the jury is absent, the court may adjourn from time to time as to other business, but it shall be nevertheless deemed open for every purpose connected with the cause submitted to the jury until a verdict is rendered or the jury is discharged.

8. MOTION FOR JUDGMENT OF ACQUITTAL.

a. MOTION BEFORE SUBMISSION TO JURY. The court on motion of a defendant or of its own motion shall order the entry of judgment of acquittal of one or more offenses charged in the indictment after the evidence on either side is closed

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if the evidence is insufficient to sustain a conviction of such offense or offenses. If a defendant's motion for judgment of acquittal at the close of the evidence offered by the prosecuting attorney is not granted, the defendant may offer evidence without having waived his right to rely on such motion.

b. RESERVATION OF DECISION ON MOTION. If a motion for judgment of acquittal is made at the close of all the evidence, the court may reserve decision on the motion, submit the case to the jury and decide the motion either before the jury returns a verdict or after it returns a verdict or is discharged without having returned a verdict.

9. TRIAL OF QUESTIONS INVOLVING PRIOR CONVICTIONS. After conviction of the primary or current offense, but prior to pronouncement of sentence, if the indictment or information alleges one or more prior convictions which by the Code subjects the offender to an increased sentence, he shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted, or that he was not represented by counsel. If he denies he is the person previously convicted, sentence shall be postponed for such time as to permit a trial before a jury on the issue of the offender's identity with the person previously convicted. Other objections shall be heard and determined by the court, and these other objections shall be asserted prior to trial of the substantive offense in the manner presented in rule ten (10). On the issue of identity, the court may in its discretion reconvene the jury which heard the current offense or dismiss that jury and submit the issue to another jury to be later impaneled. If the offender is found by the jury to be the person previously convicted, or if he acknowledged that he is such person, he shall be sentenced as prescribed in the Code.

Rule 19. WITNESSES.

1. COMPETENCY OF WITNESSES; CROSS-EXAMINATION OF THE

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ACCUSED. The rules for determining the competency of witnesses in civil actions are, so far as they are in their nature applicable, extended also to criminal actions and proceedings, except as otherwise provided. A defendant in a criminal action or proceeding shall be a competent witness in his own behalf, but cannot be called by the state. If he offers himself as a witness, he may be cross-examined as an ordinary witness, but the state shall be strictly confined therein to the matters testified to in the examination in chief.

2. COMPELLING ATTENDANCE OF WITNESSES FROM WITHOUT THE STATE TO PROCEEDINGS IN IOWA. The presence and testimony of a witness located outside the state may be secured through the uniform act to secure witnesses from without the state set forth in division nineteen (XIX) of this chapter.

3. IMMUNITY.

a. Before any witness shall be compelled to answer or to produce evidence in any judicial proceeding after having asserted that such answer or evidence would tend to render him criminally liable, incriminate him or violate his right to remain silent under the fifth amendment to the Constitution of the United States, the witness must knowingly waive his right or:

(1) A county attorney or the attorney general must file with a district court judge or district associate judge a verified application setting forth that:

The testimony of the witness, or the production of documents or other evidence in the possession of such witness, or both, is necessary and material; and

The witness has refused to testify, or to produce documents or other eivdence, or both, upon the ground that such testimony or evidence would tend to incriminate him; and

It is the considered judgment of the county attorney or attorney general that justice and the public interest require the testimony, documents or evidence in question.

(2) The application, transcripts and orders required by

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this subsection shall be filed as a separate case in the criminal docket entitled "In the matter of the testimony of (Name of witness)" and shall be indexed in the criminal index under the name of the witness. Any testimony given in support of the application for immunity shall be reported and a transcript of the testimony shall be filed with the application.

(3) Upon consideration of such application the judge shall enter an order granting the witness immunity to prosecution for any crime or public offense concerning which he was compelled to give competent and relevant testimony or to produce competent and relevant evidence.

(4) Testimony, documents or evidence which has been given by a witness granted immunity shall not be used against him in any trial or proceeding, or subject him to any penalty or forfeiture; provided, that such immunity shall not apply to any prosecution or proceeding for a perjury or a contempt of court committed in the course of or during the giving of such testimony.

b. A complete verbatim transcript of testimony given pursuant to an order of immunity shall be made and filed with the application and the order of court. The application, order granting immunity and all transcripts filed shall be sealed upon motion of the defendant, county attorney, or attorney general and shall be opened only by order of the court. This section shall not bar the use of the transcript as evidence in any proceeding except the transcript shall not be used in any proceeding against the witness himself.

c. Whoever shall refuse to testify or to produce evidence after having been granted immunity as aforesaid shall be subject to punishment for contempt of court as in the case of any witness who refuses to testify, a claim to privilege against self-incrimination notwithstanding.

4. WITNESSES FOR INDIGENTS. Counsel for a defendant who is financially unable to obtain expert or other witnesses

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necessary to an adequate defense of the case may request compensation in a written application. Upon finding, after appropriate inquiry, that the services are necessary and that the defendant is financially unable to provide compensation, the court shall authorize counsel to obtain such witnesses on behalf of the defendant. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them pursuant to division fifteen (XV) of this chapter.

Rule 20. EVIDENCE.

1. RULES. The rules of evidence prescribed in civil procedure shall apply to criminal proceedings as far as applicable and not inconsistent with the provisions of this rule.

2. QUESTIONS OF LAW AND FACT. Upon jury trial of a criminal case, questions of law are to be decided by the court, saving the right of the defendant and state to object; questions of fact are to be tried by jury.

3. OBSTRUCTING HIGHWAY BY RAILROAD. In a prosecution against a railway company for obstructing a highway or any private way, proof that any such way is in an unsafe condition, or that it is inconvenient for travel at the place of its intersection with such railway, shall be presumptive evidence that such company has obstructed such way.

4. CORROBORATION OF ACCOMPLICE OR PERSON SOLICITED. A conviction cannot be had upon the testimony of an accomplice or a solicited person, unless corroborated by other evidence which shall tend to connect the defendant with the commission of the offense; and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

5. CONFESSION OF DEFENDANT. The confession of the defendant, unless made in open court, will not warrant a conviction, unless accompanied with other proof that the defendant committed the offense.

6. PRIOR INCONSISTENT STATEMENT UNDER OATH. Evidence

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of a statement made under oath or affirmation by a witness is admissible if this prior statement is inconsistent with his testimony at a trial or hearing, and the witness is given an opportunity to explain or to deny the statement.

7. PRELIMINARY HEARING TESTIMONY WHERE WITNESS IS UNAVAILABLE. When the witness is unavailable the prior reported testimony of a witness who was subject to cross-examination at the preliminary hearing is admissible.

8. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS OF SEXUAL ABUSE. In prosecutions for the crime of sexual abuse, evidence of the prosecuting witness' previous sexual conduct shall not be admitted, nor reference made thereto in the presence of the jury, except as provided herein. Evidence of the prosecuting witness' previous sexual conduct shall be admissible if the defendant shall make application to the court before or during the trial.

The court shall conduct a hearing in camera as to the relevancy of such evidence of previous sexual conduct, and shall limit the questioning and control the admission and exclusion of evidence upon trial.

In no event shall such evidence of previous sexual conduct of the prosecuting witness committed more than one year prior to the date of the alleged crime be admissible upon the trial, except previous sexual conduct with the defendant. Nothing in this section shall limit the right of either the state or the accused to impeach credibility by the showing of prior felony convictions.

Rule 21. VERDICT.

1. FORM OF VERDICTS. In open court the jury must render a verdict of "guilty", which imports a conviction, or "not guilty" or "not guilty by reason of insanity" which imports acquittal, on the material allegations in the charge; however, upon a plea of former conviction or acquittal of the same offense, it shall be "for the state" or "for the defendant". The jury shall return a verdict determining the degree of

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guilt in cases submitted to determine the grade of the offense.

2. ANSWERS TO INTERROGATORIES. It must also return with the general verdict answers to special interrogatories submitted by the court upon its own motion, or at the request of the defendant in prosecutions where the defense is an affirmative one, or it is claimed any witness is an accomplice, or there has been a failure to corroborate where corroboration is required.

3. FINDING OFFENSE OF DIFFERENT DEGREE; INCLUDED OFFENSES. Upon trial of an offense consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the indictment or information, and guilty of any degree inferior thereto, or of an attempt to commit the offense when such attempt is prohibited by law. In all cases, the defendant may be found guilty of any offense the commission of which is necessarily included in that with which he is charged.

4. SEVERAL DEFENDANTS. On an indictment or information against several defendants, if the jury cannot agree upon a verdict as to all, it may render a verdict as to those in regard to whom it does agree, on which a judgment shall be entered accordingly, and the case as to the rest may be tried by another jury. Upon an indictment or information against several defendants, any one or more may be convicted or acquitted.

5. RETURN OF JURY; READING AND ENTRY OF VERDICT; UNANIMOUS VERDICT. The jury agreeing on a verdict with not more than one dissenting vote, shall bring the verdict into court, where it shall be read to them, and inquiry made if it is their verdict. A party may then require a poll asking each juror if it is his verdict. If more than one juror express disagreement on such poll or inquiry, the jury shall be sent out for further deliberation; otherwise, the verdict is complete and the jury shall be discharged. When the verdict is given and is such as the court may receive, the clerk may

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enter it in full upon the record.

6. VERDICT INSUFFICIENT; RECONSIDERATION; INFORMAL VERDICT. If the jury renders a verdict which is in none of the forms specified in this rule, or a verdict of guilty in which it appears to the court that the jury was mistaken as to the law, the court may direct the jury to reconsider it, and it shall not be recorded until it is rendered in some form from which the intent of the jury can be clearly understood. If the jury persists in finding an informal verdict, from which, however, it can be understood that the intention is to find for the defendant upon the issue, it shall be entered in the terms in which it is found, and the court must give judgment of acquittal.

7. DEFENDANT DISCHARGED ON ACQUITTAL. If judgment of acquittal is given on a general verdict of not guilty, and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given.

8. ACQUITTAL ON GROUND OF MENTAL ILLNESS; COMMITMENT. If the defense is mental illness of the defendant, the jury must be instructed, if it acquits him on that ground, to state that fact in its verdict. Upon hearing, the court may thereupon, if the defendant is found to be dangerous to the public peace and safety, order him committed to one of the mental health institutes or the Iowa security medical facility, or retained in custody, until he demonstrates good mental health and is considered no longer dangerous to the public peace and safety or to himself.

9. PROOF NECESSARY TO SUSTAIN VERDICT OF GUILTY.

a. REASONABLE DOUBT. Where there is a reasonable doubt of the defendant being proven to be guilty, he is entitled to an acquittal.

b. REASONABLE DOUBT AS TO DEGREE. Where there is a reasonable doubt of the degree of the offense of which the defendant is proved to be guilty, he shall only be convicted of the degree as to which there is no reasonable doubt.

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Rule 22. JUDGMENT.

1. ENTRY OF JUDGMENT OF ACQUITTAL OR CONVICTION. Upon a verdict of not guilty for the defendant, or special verdict upon which a judgment of acquittal must be given, the court must render judgment of acquittal immediately. Upon a plea of guilty, verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court must fix a date for pronouncing judgment, which must be within a reasonable time but not less than eight days after the plea is entered or the verdict is rendered, unless defendant consents thereto.

2. FORFEITURE OF BAIL; WARRANT OF ARREST. If the defendant has been released on bail, or has deposited money instead thereof, and does not appear for judgment when his personal appearance is necessary, the court, in addition to the forfeiture of the undertaking of bail or money deposited, may make an order directing the clerk, on the application of the county attorney at any time thereafter, to issue a warrant into one or more counties for his arrest, which may be substantially in the form illustrated in the appendix of forms to these rules. The warrant may be served in any county in the state. The officer must arrest the defendant and bring him before the court, or commit him to the officer mentioned in the warrant.

3. IMPOSITION OF SENTENCE.

a. INFORMING THE DEFENDANT. When the defendant appears for judgment, he must be informed by the court or the clerk under its direction, of the nature of the indictment, his plea, and the verdict, if any thereon, and be asked whether he has any legal cause to show why judgment should not be pronounced against him.

b. WHAT MAY BE SHOWN FOR CAUSE. He may show for cause against the judgment that he is insane, or any sufficient ground for a new trial, or in arrest of judgment.

c. INSANITY. If the court is of the opinion that there

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is reasonable ground for believing him insane, the question of his insanity shall be determined as provided in the Code, and if he is found to be insane, such proceedings shall be had as are herein directed.

d. JUDGMENT ENTERED. If no sufficient cause is shown why judgment should not be pronounced, and none appears to the court upon the record, judgment shall be rendered. Prior to such rendition, counsel for the defendant, and the defendant personally, shall be allowed to address the court where either wishes to make a statement in mitigation of punishment. In every case the court shall include in the judgment entry the number of the particular section of the Code under which the defendant is sentenced.

e. NOTIFICATION OF RIGHT TO APPEAL. After imposing sentence in a case, the court shall advise the defendant of his right to appeal as provided in rule fifteen point one (15.1) of the rules of the supreme court.

f. CLERICAL MISTAKES. Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

g. WITHDRAWAL OF PLEA OF GUILTY. At any time before judgment, the court may permit the plea of guilty to be withdrawn and other plea or pleas substituted.

Rule 23. MOTIONS AFTER TRIAL.

1. IN GENERAL. Permissible motions after trial include motions for new trial, motions in arrest of judgment, and motions to correct a sentence.

2. NEW TRIAL.

a. PROCEDURAL STEPS IN SEEKING OR ORDERING NEW TRIAL. A motion for a new trial shall be made within six days after verdict or finding of guilty. The defendant's motion for a new trial shall be made before judgment, but where based upon newly discovered evidence may be made after judgment

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as well. Provided, however, that not later than fifteen days after a general verdict or the filing of a decision or order, the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a ~~reason~~ grounds causes not stated in the motion. In any case the court shall specify in the order the ~~grounds~~ causes therefor.

b. ~~GROUNDS.~~ CAUSES.

The court may grant a new trial for any or all of the following causes:

(1) When the trial has been held in the absence of the defendant, in cases where such presence is required by law, except as provided in rule twenty-five (25).

(2) When the jury has received any evidence, paper or document out of court not authorized by the court.

(3) When the jury have separated without leave of court, after retiring to deliberate upon their verdict, or have been guilty of any misconduct tending to prevent a fair and just consideration of the case.

(4) When the verdict has been decided by lot, or by means other than a fair expression of opinion on the part of all jurors.

(5) When the court has misdirected the jury in a material matter of law, or has erred in the decision of any question of law during the course of the trial, or when the prosecuting attorney has been guilty of prejudicial misconduct during the trial thereof before a jury.

(6) When the verdict is contrary to law or evidence.

(7) When the court has refused properly to instruct the jury.

(8) When the defendant has discovered important and material evidence in his favor since the verdict, which he could not with reasonable diligence have discovered and produced

at the trial. A motion based upon this ground may be made within two years after final judgment, but such motion may be considered thereafter upon a showing of good cause. When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits, the court may postpone the hearing of the motion for such length of time as, under all circumstances of the case, may be reasonable.

(9) When from any other cause the defendant has not received a fair and impartial trial.

c. TRIALS WITHOUT JURIES. On a motion for a new trial in an action tried without a jury, the court may where appropriate, in lieu of granting a new trial, vacate the judgment if entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and enter judgment accordingly.

d. EFFECT OF A NEW TRIAL. The granting of a new trial places the parties in the same position as if no trial had been had; all the testimony must be produced anew and the former verdict cannot be used or referred to either in evidence or argument.

e. TIME OF DECISION. A motion for new trial shall be heard and determined by the court within thirty days from the date it is filed, except upon good cause entered in the record.

3. ARREST OF JUDGMENT.

a. MOTION IN ARREST OF JUDGMENT: DEFINITION AND GROUNDS. A motion in arrest of judgment is an application by the defendant that no judgment be rendered on a finding, plea, or verdict of guilty. Such motion shall be granted when upon the whole record no legal judgment can be pronounced.

b. TIME OF MAKING MOTION BY PARTY. The motion must be made and determined before the judgment is pronounced, and

shall be filed within six days after finding, plea, or verdict of guilty.

c. ON MOTION OF COURT. The court may also, at any time before judgment is pronounced, arrest the judgment on its own motion.

d. EFFECT OF ORDER ARRESTING JUDGMENT. The effect of an order arresting judgment is to place the defendant in the same situation in which he was immediately before the indictment was found or the information filed.

e. PROCEEDINGS AFTER ORDER ARRESTING JUDGMENT. If, from the evidence on the trial, there is reasonable ground to believe the defendant guilty, and a new indictment or information can be framed, the court may order him to be recommitted to the officer of the proper county, or admitted to bail or otherwise released anew, to answer the new indictment. In such case the order arresting judgment shall not be a bar to another prosecution. But if the evidence upon trial appears to the trial court insufficient to charge the defendant with any offense, he must, if in custody, be released; or, if admitted to bail, his bail be exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant.

f. TIME OF DECISION. A motion in arrest of judgment shall be heard and determined by the court within thirty days from the date it is filed, except upon good cause entered in the record.

4. GENERAL PRINCIPLES.

a. EXTENSIONS. The time for filing motions for new trial or in arrest of judgment may be extended to such further time as the court may fix during the six-day period.

b. DISPOSITION. If the defendant moves for a new trial, or in arrest of judgment, the court shall defer the judgment and proceed to hear and decide the motions.

c. APPEAL. Appeal from an order granting or denying a

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motion for new trial or in arrest of judgment may be taken by the state or the defendant. Where the court has denied the motion for new trial or in arrest of judgment, or both, appeal may be had only after judgment is pronounced.

d. CUSTODY PENDING APPELLATE DETERMINATION. Pending determination by the supreme court of such appeal, the trial court shall determine whether the defendant shall remain in custody, or whether, if in custody, he should be released on bail or his own recognizance. Where the trial court has arrested judgment and an appeal is taken by the state, and it further appears to the trial court that there is no evidence sufficient to charge the defendant with an offense, the defendant shall not be held in custody.

e. REINSTATEMENT OF VERDICT. In the event the supreme court reverses the order of the trial court arresting judgment or granting a new trial, it shall order that the verdict be reinstated, unless the supreme court finds other errors, in which event it may order that the verdict be set aside and a new trial be granted.

5. CORRECTION OF SENTENCE.

a. TIME WHEN CORRECTION OF SENTENCE MAY BE MADE. The court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner, or reduce a sentence, within one hundred twenty days after the sentence is imposed, or within one hundred twenty days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal.

b. CREDIT FOR TIME SERVED. The defendant shall receive full credit for time spent in custody under the sentence prior to correction or reduction.

Rule 24. EXECUTION AND STAY THEREOF.

1. MECHANICS OF EXECUTION.

a. COPY OF JUDGMENT. When a judgment of confinement, either in the penitentiary or county jail or other detention facility, is pronounced, an execution, consisting of a

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certified copy of the entry of judgment must be forthwith furnished to the officer whose duty it is to execute the same, who shall proceed and execute it accordingly, and no other warrant or authority is necessary to justify or require its execution.

b. EXECUTION AND RETURN WITHIN COUNTY; CONFINEMENT. A judgment for confinement to be executed in the county where the trial is had shall be executed by the sheriff thereof, and return made upon the execution, which shall be delivered to and filed by the clerk of said court.

c. EXECUTIONS OUTSIDE COUNTY; CONFINEMENT.

(1) Under all other judgments for confinement, the sheriff shall deliver a certified copy of the execution with the body of the defendant to the keeper of the jail or penitentiary in which the defendant is to be confined in execution of the judgment, and take his receipt therefor on a duplicate copy thereof, which he must forthwith return to the clerk of the court in which the judgment was rendered, with his return thereon, and a minute of said return shall be entered by the clerk as a part of the record of the proceedings in the cause in which the execution issued.

(2) When such defendant is discharged from custody, the jailer or warden of the place of confinement shall make return of such fact to the proper court, and an entry thereof shall be made by its clerk as is required in the first instance.

d. EXECUTION FOR FINE.

(1) Upon a judgment for a fine, an execution may be issued as upon a judgment in a civil case, and return thereof shall be made in like manner.

(2) Judgments for fines, in all criminal actions rendered, are liens upon the real estate of the defendant, and shall be entered upon the lien index in the same manner and with like effect as judgments in civil actions.

e. EXECUTION IN OTHER CASES. When the judgment is for the abatement or removal of a nuisance, or for anything other

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than confinement or payment of money by the defendant, an execution consisting of a certified copy of the entry of such judgment, delivered to the sheriff of the proper county, shall authorize and require him to execute such judgment, and he shall return the same, with his doings under the same thereon endorsed, to the clerk of the court in which the judgment was rendered, within a time specified by the court but not exceeding seventy days after the date of the certificate of such certified copy.

f. DAYS IN JAIL BEFORE TRIAL CREDITED. The defendant shall receive full credit for time spent in custody on account of the offense for which he is convicted.

2. STAY OF EXECUTION.

a. CONFINEMENT. A sentence of confinement shall be stayed if an appeal is taken and the defendant is released pending disposition of appeal pursuant to division fourteen (XIV).

b. FINE AND OTHER CASES. The defendant may have a stay of execution for the same length of time and in the same manner as provided by law in civil actions, and with like effect, and the same proceedings may be had therein.

c. PROBATION. An order placing the defendant on probation may be stayed if an appeal is taken. If not stayed, the court shall specify when the term of probation shall commence. If the order is stayed the court shall fix the terms of the stay.

Rule 25. PRESENCE OF DEFENDANT; REGULATION OF CONDUCT BY THE COURT.

1. FELONY OR MISDEMEANOR. In felony cases the defendant shall be present at the arraignment, at the time of the plea, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule. In other cases he may appear by counsel.

2. CONTINUED PRESENCE NOT REQUIRED. In all cases, the progress of the trial or any other proceeding shall not be prevented whenever a defendant, initially present, does one

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of the following:

a. Voluntarily absents himself after the trial or other proceeding has commenced.

b. Engages in conduct which is such as to justify his being excluded from the courtroom.

3. PRESENCE NOT REQUIRED. A defendant need not be present in the following situations:

a. A corporation may appear by counsel for all purposes.

b. The defendant's presence is not required at a reduction of sentence under rule twenty-three (23).

4. REGULATION OF CONDUCT IN THE COURTROOM.

a. The taking of photographs in the courtroom during the progress of judicial proceedings or radio broadcasting or televising of judicial proceedings from the courtroom shall not be permitted by the court, except for appropriate noncommercial purposes upon agreement by the prosecutor and the written consent of the defendant.

b. When a defendant engages in conduct seriously disruptive of judicial proceedings, one or more of the following steps may be employed to ensure decorum in the courtroom:

(1) Cite the defendant for contempt.

(2) Take him out of the courtroom until he promises to conduct himself properly.

(3) Bind and gag him, thereby keeping him present.

c. When a person who is present in the courtroom is supposed by a magistrate or a judge to have upon his person a weapon, the magistrate or judge may direct that such person be searched, and any weapon be retained subject to order of the court.

d. The magistrate or judge may cause the courtroom to be cleared of all persons, or any portion thereof, except the parties to the proceeding and their attorneys, when in the opinion of the magistrate or judge it is necessary, in order to preserve the integrity or order of the proceedings.

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Rule 26. RIGHT TO ASSIGNED COUNSEL.

1. REPRESENTATION. Every defendant who is an indigent as defined in section three hundred thirty-six A point four (336A.4) of the Code shall be entitled to have counsel assigned to represent him at every stage of the proceedings from his initial appearance before the magistrate or the court through

appeal, including probation and parole revocation hearings, unless he waives such appointment.

2. COMPENSATION. When counsel is assigned to represent an indigent defendant, or to serve as standby counsel as provided in rule eight (8), compensation shall be paid as directed in division fifteen (XV) of this chapter.

Rule 27. DISMISSAL OF PROSECUTIONS; RIGHT TO SPEEDY TRIAL.

1. DISMISSAL GENERALLY: EFFECT. The court, upon its own motion or the application of the county attorney, in the furtherance of justice, may order the dismissal of any pending criminal prosecution, the reasons therefor being stated in the order and entered of record, and no such prosecution shall be discontinued or abandoned in any other manner. Such a dismissal is a bar to another prosecution for the same offense if it is a misdemeanor; but it is not a bar if the offense charged be a felony.

2. SPEEDY TRIAL. It is the public policy of the state of Iowa that criminal prosecutions be concluded at the earliest possible time consistent with a fair trial to both parties.

1. When a person is formally charged with a public offense, if an indictment be not found against him within forty-five days, the court must order the prosecution to be dismissed, unless good cause to the contrary be shown. An accused not admitted to bail and unrepresented by legal counsel shall not be deemed to have waived the privilege of dismissal or be held to make demand or request to enforce a guarantee of speedy indictment, and the court on its own motion shall carry out the provisions of this section as to dismissal.

2. If a defendant indicted for a public offense is not admitted to bail and not represented by legal counsel, whose trial has not been postponed on his own application, he must be brought to trial within ninety days after indictment is found and the court

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must order the indictment to be dismissed unless good cause to the contrary be shown.

3. A defendant indicted for a public offense who is not in jail or who is represented by legal counsel must be brought to trial within ninety days after a written demand for speedy trial is served on the prosecuting attorney, and the court must order the indictment dismissed unless good cause to the contrary is shown.

4. All criminal cases must be brought to trial within one year after the defendant's initial arraignment unless an extension is granted by the court, upon a showing of good cause.

5. If the court direct the prosecution to be dismissed, the defendant, if in custody, must be discharged, or his bail, if any, exonerated, and if money has been deposited instead of bail, it must be refunded to him.

6. The court, upon its own motion or the application of the prosecuting attorney, in the furtherance of justice, may order the dismissal of any pending criminal prosecution, the reasons therefor being stated in the order and entered of record, and no such prosecution shall be discontinued or abandoned in any other manner. Such a dismissal is a bar to another prosecution for the same offense if it is a misdemeanor; but it is not a bar if the offense charged be a felony.

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Rule 28. MOTIONS AND OTHER PAPERS.

1. MOTIONS. An application to the court for an order

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shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state the grounds upon which it is made and shall set forth the relief or order sought. It may be supported by affidavit.

2. SERVICE OF MOTIONS AND PAPERS. Service and filing of written motions, notices and other similar papers shall be in the manner provided in civil actions.

Rule 29. RULES OF COURT.

1. DISTRICT COURT PRACTICE RULES. Any rules made by courts governing local practice therein shall be consistent with these rules and applicable statutes.

2. PROCEDURES NOT SPECIFIED THEREIN. If no procedure is specifically prescribed by these rules or by statute, the court may proceed in any lawful manner not inconsistent with same.

3. APPLICATION TO JUVENILE PROCEEDINGS. In all cases involving juveniles, the juvenile court shall, in the exercise of its discretion, determine initially whether these rules shall apply to the juvenile proceedings before it. In any case where such determination is affirmatively made, the court shall so declare by order. In exercising its discretion to apply these rules, the court may consider the seriousness of the conduct allegedly committed by the juvenile and whether such conduct, if proved, would constitute a state or local law violation if committed by an adult.

Rule 30. ADDITIONS TO AND AMENDMENT OF RULES. These rules may be amended, provisions deleted, and new rules added, in the manner prescribed for civil rules under chapter six hundred eighty-four (684) of the Code.

Rule 31. FORMS. The forms contained in the appendix of forms are illustrative and not mandatory, and any particular instrument may be in more or less the form illustrated.

Rule 32. TITLE. These rules shall be known as the rules of criminal procedures. (R.Cr.P.)

APPENDIX OF FORMS

(See Rule 31)

FORM 1

SEARCH WARRANT

State of Iowa

County of _____

To any peace officer of the state:

Proof having been this day made before me as provided by law that (here, with reasonable certainty and in accordance with the information and other proof obtained by the magistrate, designate the property, its location, the person in possession thereof, and the unlawful use or purpose to which it has been, or is being employed or held) and being satisfied that the foregoing recital relative to said property is probably true, now, therefore, you are commanded to make immediate search of (here state whether the search is of the person of a named person or of said premises, or of another designated thing) and if said property or any part thereof be found, you are commanded to bring said property forthwith before me at my office.

Dated at _____ this _____ day of _____, _____.

_____

(official title)

FORM 2

ARREST WARRANT ON A COMPLAINT

State of Iowa

County of _____

To any peace officer of the state:

Complaint upon oath or affirmation having been this day filed with me, charging that the crime (naming it) has been committed and accusing A_____ B_____ _____ thereof:

You are commanded forthwith to arrest the said A_____ _____ B_____ and bring him

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before me at (naming the place), or, in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at _____ this _____ day of _____, _____.

C_____ D_____

(with official title)

FORM 3

ARREST WARRANT AFTER INDICTMENT OR INFORMATION

State of Iowa

County of _____

To any peace officer in the state:

An indictment (information) having been filed in the district court of said county on the _____ day of _____, _____, (the day on which the indictment (information) is filed) charging A. B. with the crime of (here designate the offense by the number of the statutory provision and name of the offense if it have one, or by a brief general description of it, substantially as in the indictment).

You are hereby commanded to arrest the said A. B. and bring him before said court to answer said indictment.

Signed this _____ day of _____, _____.

(Seal) _____

Clerk or Judge

By order of the judge of the court.

There may be added to the above, "Let the defendant be admitted to bail in the amount of _____ dollars (or subject to other conditions endorsed on the warrant)."

If the offense be a misdemeanor, the warrant may be in a similar form, adding to the body thereof a direction substantially to the following effect: "Or, if the said A. B. require it, that you take him before a magistrate or the clerk of the district court in said county, or in the county in which you arrest him, that he may give bail to answer the said indictment", and the clerk may make an endorsement thereon

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to the following effect: "The defendant is to be admitted to bail in the sum of _____ dollars" (the amount fixed by the judge).

FORM 4

ARREST WARRANT WHEN DEFENDANT FAILS TO APPEAR FOR SENTENCING

State of Iowa

County of _____

To any peace officer in the state:

A_____ B_____,

having been duly convicted on the _____ day of _____, _____, in the district court of _____ County, of the crime of (here state the name of the offense and the statutory provision).

You are hereby commanded to arrest the said A_____ _____ B_____ and bring him before said court for judgment.

Signed this _____ day of _____, _____.

_____

Clerk or Judge

FORM 5

BAIL BOND

State of Iowa

County of _____

An indictment (or charge) having been found (or made) in the district court (or other appropriate court) of the county of _____ on the _____ day of _____, _____, charging A_____ B_____ _____ with the crime of _____ (designating it as in the warrant, indictment, or complaint), and he having been duly admitted to bail in the sum of _____ dollars:

We, A_____ B_____ and E_____ F_____, hereby undertake that the said A_____ B_____ shall appear at the _____

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court of the county of _____, on the _____ day of _____, _____, and answer the said indictment (or charge), and submit to the orders and judgment of said court, and not depart without leave of same, or, if he fail to perform either of these conditions, that he will pay to the State of Iowa the sum of _____ (inserting the sum in which the defendant is admitted to bail).

A_____ B_____

E_____ F_____

Acknowledged before and accepted by me at _____, in the township of _____, in the county of _____ this _____ day of _____, _____.

G_____ H_____

(with official title)

FORM 6

ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL

State of Iowa

County of _____

To the sheriff of the County of _____:

C_____ D_____,

who is detained by you on commitment (or indictment or conviction, as the case may be) for the offense of (here designate it generally), having given sufficient bail to answer the same, you are commanded forthwith to discharge him from custody.

Dated at _____, in the township (town or city) of _____, in the county of _____, this _____ day of _____, _____.

K_____ L_____

(with official title)

FORM 7

ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL: ANOTHER FORM

(For endorsement on warrant or order of commitment)

State of Iowa

County of _____

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To the officer (naming him and his official title, thus A_____ B_____, Sheriff of _____ County) having in custody C_____ _____ D_____ (naming him):

The defendant named in the within warrant of arrest (or order of commitment) now in your custody under the authority thereof for the offense therein designated, having given sufficient bail to answer the same by the undertaking herewith delivered to you, you are commanded forthwith to discharge him from custody, and, without unnecessary delay, deliver this order, together with the said undertaking of bail, to _____ _____ (name and address of the appropriate district court clerk, or the court or magistrate who issued the warrant).

Dated at _____ this _____ day of _____, _____.

E_____ F_____

(with official title)

FORM 8

TRIAL INFORMATION

(also designated County Attorney's Information)

IN THE DISTRICT COURT OF _____ COUNTY

STATE OF IOWA

vs. INFORMATION

A_____ B_____

Comes now _____, as county attorney of _____ County, State of Iowa, and in the name and by the authority of the State of Iowa accuses A_____ B_____ of the crime of (here insert the name of the offense, number of the statutory provision and whether felony or misdemeanor), committed as follows:

The said A_____ B_____, on or about the _____ day of _____, _____ (inserting the year) in the county of _____, and State of Iowa,

did (here insert the acts or omissions constituting the offense).

_____

County Attorney

State of Iowa

County of _____ ss.

I, _____, being first duly sworn, do depose and say, that I have made full and careful investigation of the facts upon which the above charge is based, and that the allegations contained in the above and foregoing information are true, as I verily believe.

_____

Subscribed and sworn to by _____ before me, the undersigned, this _____ day of _____, _____.

_____

(Here insert title of official before whom verification is made.)

Upon the information shall be endorsed the following:

(a) A true information

_____

County Attorney

(b) Names of witnesses:

_____

_____

_____

(c) On this _____ day of _____, _____ being satisfied from the showing made herein that this cause should (or should not, as the case may be) be prosecuted by information, the same is approved (or disapproved and the charge is ordered submitted to the grand jury, as the case may be).

_____

Judge of District Court

(d) This information duly filed in the district court, this _____ day of _____, _____.

_____

(Clerk of the District Court of _____ County, State of Iowa)

By_____

Deputy Clerk

(e) Bail is hereby fixed on the within information in the sum of $_____.

_____

(Here insert official title of judge or clerk, as case may be)

FORM 9

GENERAL INDICTMENT FORM

IN THE DISTRICT COURT OF IOWA IN AND FOR _____ COUNTY STATE OF IOWA

vs. INDICTMENT

A_____ B_____

The grand jurors of the county of _____ accuse A_____ B_____ of (here state the offense and whether felony or misdemeanor) in violation of (here state by number the statutory section violated) and charge that the said A_____ B_____ on or about the _____ day of _____, _____, in the county of _____ and State of Iowa, (here briefly insert any particulars of the offense, such as the name of the victim in a criminal homicide case).

A true bill.

/s/_____

Foreman of grand jury

Names of witnesses:

_____

_____

_____

FORM 10

INDICTMENT

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(short forms)

The following forms may be used in cases in which they may be applicable:

Abandoning Child: A.B. wrongfully abandoned C.D., a child (or a disabled person) who was in the custody of said A.B.

Arson: A.B. committed arson in the _____ degree upon (a dwelling) the property of C.D. (of a value exceeding $500) (thus endangering E.F.).

Assaults: A.B. assaulted C.D. while participating in (name felony) (thereby causing serious injury to C.D.); A.B. assaulted C.D. and thereby intentionally caused serious injury to C.D.; A.B. administered a harmful substance (name substance) to C.D.

Attempts: A.B. attempted to (state substantive offense).

Bigamy: A.B. committed bigamy by marrying C.D. while said A.B. had a living spouse, D.B.

Bomb threat: A.B. communicated a bomb threat to C.D.

Bribery: A.B. bribed C.D.; A.B. solicited (received) a bribe from C.D. (an elector) (an election official).

Burglary: A.B. committed burglary in the _____ degree upon the property of C.D. (briefly set out circumstances if first degree is charged; e.g., while carrying a dangerous weapon).

Carrying weapon: A.B. carried a concealed weapon; A.B. carried a (describe firearm) within the city limits of (name city); A.B. carried a handgun in a vehicle.

Compounding felony: A.B., knowing that C.D. had committed a felony, compounded that felony.

Conspiracy: A.B. conspired with C.D. to commit (state substantive offense) (a class _____ felony; a _____ misdemeanor).

Criminal mischief: A.B. committed criminal mischief in the _____ degree upon the property of (name owner).

Criminal trespass: A.B. committed criminal trespass upon the property of (name owner) (thus injuring C.D.) (causing

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more than $100 in damage).

Detention in brothel: A.B. detained C.D. in a brothel.

Disturbance: A.B. willfully disturbed (name body or agency).

Driving under suspension: A.B. operated a motor vehicle while his license was (under suspension) (revoked).

Escape: A.B. escaped from custody: A.B. permitted C.D. to escape from custody.

Extortion: A.B. committed extortion upon C.D.

False imprisonment: A.B. falsely imprisoned C.D.

False information: A.B., while attempting to purchase a handgun, falsely stated (set out false statement); A.B., on an application for a weapons permit, falsely stated (set out false statement).

False report of destructive substance: A.B. falsely reported a bomb to C.D.

False use of financial instrument: A.B. falsely used a financial instrument, to wit: (set out type of instrument).

Falsifying public documents: A.B. falsified public documents; A.B. wrongfully possessed a seal of (name agency).

Feticide: A.B. committed feticide by causing the death of the fetus of C.D.

Fraudulent practices: A.B. committed a fraudulent practice by (state briefly the fraudulent practice).

Furnishing controlled substance: A.B. furnished a controlled substance, to wit: (name controlled substance) to C.D., an inmate of (name institution); A.B. introduced a controlled substance, to wit: (name controlled substance) into (name institution).

Furnishing pornography to minor: A.B. furnished pornography to C.D., a minor.

Going armed with intent: A.B. went armed with intent.

Harassment of public officer: A.B. harassed C.D. (state title or position).

Homicide: A.B. committed homicide in the _____ degree,

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resulting in the death of C.D.

Impersonating public official: A.B. falsely impersonated a public official.

Improper voting: A.B. improperly voted (knowing himself not to be qualified) (having already voted once in that election).

Incest: A.B. committed incest with C.D.

Indecent exposure: A.B. indecently exposed himself to C.D.

Insurrection: A.B., acting with C.D. and E.F., participated in an insurrection.

Kidnapping: A.B. committed kidnapping in the _____ degree by kidnapping C.D.

Lascivious acts with a child: A.B. committed lascivious acts with C.D., a child.

Malicious prosecution: A.B. maliciously caused (attempted to cause) the prosecution of C.D.

Nonsupport: A.B. wrongfully refused (or failed) to support C.D., whom A.B. was under a legal obligation to support.

Obstructing prosecution: A.B. obstructed the prosecution of C.D.

OMVUI: A.B. operated a motor vehicle while under the influence of drugs or intoxicants (having been convicted _____ times previously for the offense).

Operating vehicle without consent: A.B. operated C.D.'s vehicle without C.D.'s consent.

Perjury: A.B. committed perjury by testifying (set out substance of testimony).

Pimping: A.B. solicited C.D. as a patron for a prostitute; A.B. knowingly shared in the earnings of C.D., a prostitute; A.B. knowingly furnished a place to be used for prostitution.

Possession of burglary tools: A.B. possessed burglary tools.

Possession of explosive: A.B. possessed (name substance)

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with the intent to use it to commit a public offense.

Possession of offensive weapon: A.B. had unauthorized possession of an offensive weapon, to wit: (describe weapon).

Prostitution: A.B. committed prostitution by offering his/her services for sale (or selling his or her services) as a partner in a sex act; A.B. purchased (or offered to purchase) C.D.'s services as a partner in a sex act.

Public display of offensive matter: A.B. publicly displayed offensive matter, to wit: (describe offensive matter).

Reckless endangerment: A.B. recklessly endangered human life or safety (thereby seriously injurying C.D.).

Reckless use of explosive: A.B. recklessly endangered the property or safety of C.D. by A.B.'s use of (name substance).

Riot: A.B., together with C.D. and E.F., participated in a riot.

Risking a catastrophe: A.B. caused (or risked) a catastrophe by: (state nature of activity).

Robbery: A.B. committed robbery in the _____ degree against C.D.

Sexual abuse: A.B. sexually abused C.D. in the _____ degree.

Solicitation: A.B. solicited C.D. to commit (state substantive offense solicited) (a felony) (an aggravated misdemeanor).

Suborning perjury: A.B. suborned C.D. to commit perjury.

Terrorism: A.B. committed terrorism.

Theft: A.B. committed theft in the _____ degree by taking property belonging to C.D. (set out circumstances such as value of property setting degree of theft).

Traps: A.B. set a trap (or spring gun).

A similar short form indictment may be used for offenses not appearing in this table, provided it complies with the requirements of rule four (4), subsection seven (7), Iowa Rules of Criminal Procedure.

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Sec. 1302. NEW SECTION. TRIAL OF SIMPLE MISDEMEANORS.

Rule 33. SCOPE. The rules set forth in this section shall apply to trials of simple misdemeanors, and attendant proceedings and to appeals from conviction in such cases.

Rule 34. APPLICABILITY OF DISTRICT COURT RULES. Procedures not provided for herein shall be governed by the provisions of these rules which are by their nature applicable relating to trial of indictable offenses, and by the statutes of the state of Iowa.

Rule 35. TO WHOM TRIED. Judicial magistrates and district associate judges must hear, try and determine all simple misdemeanors. District judges may transfer any simple misdemeanors pending before them to the nearest judicial magistrate or district associate judge.

Rule 36. THE CHARGE. Prosecutions for simple misdemeanors must be commenced by filing a subscribed and sworn to complaint with a magistrate or district court clerk or his deputy.

Rule 37. CONTENTS OF THE COMPLAINT. The complaint shall contain:

1. The name of the county and of the court where the complaint is filed.

2. The names of the parties, if the defendants be known, and if not, then such names as may be given them by the complainant.

3. A brief and concise statement of the act or acts constituting the offense, including the time and place of its commission as near as may be, and identifying by number the provision of law alleged to be violated.

4. The provisions of section seven hundred sixty-nine point six (769.6) of the Code shall be applicable to the prosecution before a magistrate of cases within his jurisdiction.

Rule 38. FILING OF COMPLAINT. The magistrate or district court clerk or his deputy must file the complaint and mark thereon the time of filing the same.

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Rule 39. WARRANT OF ARREST. Immediately upon filing the complaint, the magistrate or district court clerk or his deputy may issue a warrant of arrest or may issue a citation instead of a warrant for arrest and deliver it to a peace officer.

Rule 40. ARREST. The officer who receives the warrant shall arrest the defendant and bring him before the magistrate without unnecessary delay or serve that citation in the manner provided in chapter seven hundred fifty-three (753) of the Code.

Rule 41. PROSECUTION OF CORPORATIONS. In prosecutions against corporations the corporation may be proceeded against by summons as set forth in division seven (VII) of this chapter.

Rule 42. APPEARANCE OF DEFENDANT. When the defendant first appears, the charge against him must be distinctly read to him, and a copy given him, and he shall be asked whether he is charged under his right name. If the defendant objects that he is wrongly named in the complaint, he must give his right name, and if he refuses to do so, or does not object that he is wrongly named, the magistrate shall make an entry thereof in his docket, and he is thereafter precluded from making any such objection.

Rule 43. RIGHTS OF DEFENDANT. The court shall inform the defendant:

1. Of his right to counsel.

2. Of the circumstances under which he might secure pre-trial release, and of his right to review any conditions imposed on his release.

3. That he is not required to make a statement and that if he does, it may be used against him.

In appropriate cases the court shall appoint counsel for an indigent defendant in accordance with procedures established under rule two (2), subdivision three (3). The magistrate shall allow the defendant reasonable time and opportunity

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to consult with counsel, in the event the defendant expresses a desire to do so.

Rule 44. BAIL. Admission to bail shall be as provided for in division eleven (XI) of this chapter.

Rule 45. PLEA. The defendant shall be required to enter a plea to the complaint, and permissible pleas include those allowed when the defendant is indicted, as set forth in rule eight (8).

Rule 46. TRIAL DATE. Upon a plea other than guilty the magistrate shall set a trial date which shall be at least fifteen days after the plea is entered. He shall notify the prosecuting attorney of the trial date. The defendant shall be entitled to jury trial by filing with the magistrate a written jury demand at least ten days before the time set for trial. Failure to make a jury demand in the manner prescribed herein constitutes a waiver of jury. If demand is made, the action shall be tried by a jury of six members. Upon the request of the defendant, the magistrate may set the date of trial at a time less than fifteen days after a plea other than guilty is entered. The magistrate shall notify the defendant that a request for earlier trial date shall constitute a waiver of jury.

Rule 47. CHANGE OF VENUE. A change of place of trial may be applied for in the manner prescribed in rule ten (10), and the papers transmitted in similar manner as described therein to the judicial officer or clerk of the court to which change is allowed.

Rule 48. BAILIFF OBTAINED. If trial by jury is demanded, the magistrate shall notify the sheriff who shall furnish a bailiff at that time and place to act as officer of the court.

Rule 49. SELECTION OF JURY; TRIAL.

1. SELECTION OF PANEL. If a trial by jury is demanded, the magistrate shall notify the clerk of the district court of the time and place of trial. The clerk shall thereupon

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select by lot fourteen names from the district court jury panel. The clerk shall notify these jurors of the time and place for trial.

2. CHALLENGES. Except where inconsistent with this rule, rule seventeen (17) shall apply, but no challenge to the panel is allowed.

3. COMPLETION OF PANEL. If for any reason the panel as chosen by the clerk becomes insufficient to obtain a jury, the magistrate may direct the officer of the court to summon any bystander or others who may be competent, and against whom no sufficient cause of challenge appears, to act as jurors.

4. STRIKES. If, after all challenges and strikes as noted in rule seventeen (17) have been exercised, the remaining jurors number more than six, the parties shall continue to strike jurors in order, commencing with the defendant, until the panel is reduced to six jurors.

5. ALTERNATE JURORS. No alternate jurors shall be chosen.

6. JURY OF SIX. When six jurors appear and are accepted, they shall constitute the jury.

7. OATH OF JURORS. The magistrate must thereupon administer to them the following oath or affirmation: "You do swear (or, you do solemnly affirm, as the case may be) that you will well and truly try the issue between the state of Iowa and the defendant, and a true verdict give according to the law and evidence."

8. TRIAL. The court shall conduct the trial in the order of indictable cases in accordance with rule eighteen (18).

9. RECORD. Upon the trial, the judicial magistrate shall make minutes of the testimony of each witness and append the exhibits or copies thereof. The proceedings upon trial shall not be reported, unless a party provides a reporter at such party's expense. By agreement of the parties the magistrate may cause the proceedings upon trial to be reported electronically. If the proceedings are being electronically

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recorded both parties shall be notified in advance of that recording. If the defendant is indigent and requests that the proceedings upon trial be reported, the judicial magistrate shall cause them to be reported by a reporter, or electronically, at public expense. If the proceedings have been reported electronically the recording shall be retained under the jurisdiction of the magistrate and upon request shall be transcribed only by a person designated by the court under the supervision of the magistrate. The transcription shall be provided anyone requesting same upon payment of actual cost of transcription or to an indigent defendant as herein above provided.

Rule 50. JUDGMENT. When the defendant is acquitted, he must be immediately discharged. When the defendant pleads guilty or is convicted, the magistrate may render judgment thereon as the case may require, being governed by the rules prescribed for the trial of indictable offenses, as far as the same are applicable.

Rule 51. COSTS TAXED TO PROSECUTING WITNESS. If the prosecuting witness fails without good cause to appear or give evidence on the trial, and defendant is discharged on account of such failure, the magistrate may, in his discretion, tax the costs of the proceeding against such prosecuting witness and render judgment therefor; and if defendant is acquitted, the magistrate shall, if satisfied that the prosecution is malicious or without probable cause, so tax the costs and render judgment therefor.

Rule 52. SUPPRESSION OF EVIDENCE AND DISPOSITION OF SEIZED PROPERTY. Motions to suppress evidence shall proceed in the manner provided for the trial of indictable offenses, and any property seized dealt with in the manner provided in indictable offenses.

Rule 53. JOINT TRIALS. Unless it shall result in prejudice to a party, the court may order two or more complaints to be tried together if the defendant is the same; or if there

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is more than one defendant, but all defendants so joined are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses.

Rule 54. FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE. In a specified simple misdemeanor a court may accept a forfeiture of collateral security in lieu of appearance, as a proper disposition of a case, except for nonscheduled traffic violations. Each judicial district, by action of a majority of its judges, may determine the misdemeanors subject to such disposition and promulgate by rule a list of same and disseminate to all magistrates in the district. A copy of such rule shall be transmitted to the clerk of the supreme court. Prior to termination of the case by forfeiture under this rule, the defendant must execute a written request for same. Unless vacated upon application within thirty days of the forfeiture, such forfeiture shall constitute a conviction in satisfaction

Rule 55. APPEALS.

1. NOTICE OF APPEAL. An appeal may be taken by the plaintiff only upon a finding of invalidity of an ordinance or statute. In all other cases, an appeal may only be taken by the defendant and only upon a judgment of conviction. Execution of the 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. The defendant may take an appeal, by giving notice orally to the magistrate that he appeals, or by delivering to the magistrate not later than ten days thereafter, a written notice of his appeal, and in either case the magistrate must make an entry on its docket of the giving of such notice. Payment of fine or service of a sentence of imprisonment does not waive the right to appeal, nor render the appeal moot. When an appeal is taken, the magistrate shall forward to the appropriate district court clerk a copy of the docket entries

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in his court, together with copies of the complaint, warrant, motions, pleadings, his minutes of the witness' testimony and the exhibits or copies thereof and all other papers in the case. A district judge shall promptly hear the appeal upon the record thus filed without further evidence. Within ten 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 a part of the record, a transcript of the official report, if any, and, in the event the report was made electronically, the tape or other medium on which the proceedings were preserved. If the original action was tried before a district judge acting as a judicial magistrate, the appeal shall be to a different district judge. The judge shall decide the appeal without regard to technicalities or defects. Judgment shall be rendered as though the case were being originally tried.

2. BAIL.

a. ADMISSION TO BAIL. Admission to bail shall be as provided for in division eleven (XI) of this chapter. Execution of the judgment shall not be stayed unless the defendant is admitted to bail.

b. OFFICERS AUTHORIZED TO TAKE BAIL. Bail may be taken by the magistrate who rendered the judgment, or by any magistrate in the county of the district court of that county. The magistrate taking bail shall remit it to the clerk of the district court who shall give receipt therefor.

3. COUNSEL. In appropriate cases, the magistrate shall appoint counsel on appeal.

4. APPEAL TO SUPREME COURT. After appeal to a district judge in a nonindictable case, either party may appeal from the judgment of the district judge to the supreme court in the same manner as from a judgment in a prosecution by indictment, and the defendant may be admitted to bail in like manner, and similar proceedings shall be had on the appeal in all respects, as far as applicable. The same proceedings

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shall be had to carry into effect the judgment of the supreme court upon the appeal as if it had been taken from a judgment prosecuted by indictment.

Rule 56. NEW TRIAL. The magistrate, on motion of a defendant, may grant a new trial to him if required in the interest of justice. A motion for a new trial based on the ground of newly discovered evidence may be made only before or within thirty days after final judgment. A motion for a new trial based on any other grounds shall be made within seven days after a finding of guilty or within such further time as the court may fix during the seven-day period.

Rule 57. CORRECTION OR REDUCTION OF SENTENCE. The magistrate may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence. The magistrate may reduce a sentence within ten days after the sentence is imposed or within ten days after the receipt by the magistrate of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within ten days after entry of any order or judgment of the supreme court denying review of, or having the effect of upholding, a judgment of conviction. The court may also reduce a sentence upon revocation of probation as provided by law.

APPENDIX OF FORMS

(See Rule 31)

FORM A

COMPLAINT

State of Iowa Before (Judge, Magistrate) _____

County of _____ (insert name of lower court judge or magistrate)

State of Iowa

vs.

A_____ B_____, Defendant

The defendant is accused of the crime of (here name the offense and provide numerical designation), in that the defen-

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dant on the _____ day of _____, _____, at the _____ (here locate the city, or township where the offense occurred), in _____ county, did (state the acts or omissions constituting the offense).

/s/_____

FORM B

CONSENT TO FORFEITURE OF COLLATERAL
AS DISPOSITION OF MISDEMEANOR

State of Iowa
County of _____

I, the undersigned, agree to have the amount of $_____ forfeited as a fine and my case terminated. I do this with the following understanding:

1. I have been charged with the offense of _____ _____ (here name the offense and provide numerical designation).

2. I understand my rights, including my right to trial before the court on such charge, and voluntarily waive same, understanding that forfeiture of the aforesaid amount terminates my right to a trial and constitutes a conviction of the offense charged.

_____
(Signature of defendant)

FORM C

NOTICE OF APPEAL TO A DISTRICT COURT JUDGE
FROM A JUDGMENT OR ORDER

State of Iowa
County of _____
State of Iowa
vs. Notice of Appeal
C_____ D_____, Defendant

Notice is hereby given that C_____ D_____ _____, defendant above named, hereby appeals to a district court judge for _____ County (from the final judgment) (from the order) entered in this action on the _____

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day of _____, _____.

/s/_____

_____

(Address)

Attorney for C_____ D_____

FORM D

BAIL BOND ON APPEAL TO DISTRICT COURT

State of Iowa

County of _____

A_____ B_____ having been convicted before C_____ D_____, a magistrate of said county, of the crime of (here designate it generally as in the information), by a judgment rendered on the _____ day of _____, A.D. _____, and having appealed from said judgment to a district court judge of said county:

We, A_____ B_____, and E_____ F_____, hereby undertake that the said A_____ B_____ will appear in the district court of said county on the _____ day of _____ (month), 19___ (year), (which date shall be not more than twenty days after perfection of the undertaking), and submit to the judgment of said court, and not depart without leave of the same, or that we (or I, as the case may be) will pay to the state of Iowa the sum of _____ dollars (the amount of bail fixed).

A_____ B_____

E_____ F_____

Accepted by me, at _____, in the township of _____, this _____ day of _____, A.D. _____.

C_____ D_____

Judicial Magistrate.

DIVISION XIV

APPEALS IN THE SUPREME COURT

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Section 1401. NEW SECTION. DEFINITION OF APPEAL AND DISCRETIONARY REVIEW. For the purposes of this division, unless the context otherwise requires:

1. "Appeal" is the right of both the defendant and the state to have specified actions of the lower court considered by the supreme court.

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.

Sec. 1402. NEW SECTION. 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 court below.

Sec. 1403. NEW SECTION. APPEALS IN CASES INVOLVING MORE THAN ONE DEFENDANT. When defendants are tried jointly, they may seek discretionary review or may appeal separately or they may join. The supreme court may, in the interest of justice, consolidate appeals or applications for discretionary review.

Sec. 1404. NEW SECTION. PERFECTION OF AN APPEAL AND APPLICATION FOR DISCRETIONARY REVIEW. An appeal is perfected by filing a written notice within sixty days after judgment or order with the clerk of the court wherein the judgment or order was issued. Application for discretionary review is made by filing a written notice within ten days after judgment or order with the clerk of the court wherein the judgment or order was issued.

Sec. 1405. NEW SECTION. THE STATE AS APPELLANT OR APPLICANT. Appeal is granted the state from:

1. An order dismissing an indictment, information, or any count thereof.

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2. A judgment for the defendant on a motion to the indictment or the information.

3. An order arresting judgment or granting a new trial.

Discretionary review may be available in the following cases:

1. An order quashing an arrest or search warrant.

2. An order suppressing or admitting evidence.

3. An order granting or denying a change of venue.

4. A final judgment or order raising a question of law important to the judiciary and the profession.

Sec. 1406. NEW SECTION. THE DEFENDANT AS APPELLANT OR APPLICANT. Appeal is granted the defendant from:

1. A final judgment of sentence, except in case of simple misdemeanor and ordinance violation convictions.

2. An order for the commitment of the defendant for insanity or drug addiction, or an order for the indeterminate commitment of the defendant as a mentally disordered sex offender.

Discretionary review may be available in the following cases:

1. An order suppressing or admitting evidence.

2. An order granting or denying a change of venue.

3. An order denying probation.

4. Simple misdemeanor and ordinance violation convictions.

5. An order raising a question of law important to the judiciary and the profession.

Sec. 1407. NEW SECTION. DUTY OF CLERK WHEN APPEAL IS PERFECTED OR APPLICATION MADE. When an appeal or an application for discretionary review is filed, the clerk of the court in which the judgment or order was rendered shall:

1. Immediately prepare and transmit to the adverse party and his attorney of record, and if the defendant is the moving party, to the attorney general and the clerk of the supreme court, a true copy of the notice of appeal or application, together with the date of filing.

2. Immediately prepare and transmit to the clerk of the supreme court and the attorney general a transcript of all

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record entries relevant to the appeal or application, together with copies of all papers in the case on file in his office, except those returned by the examining magistrate on the preliminary examination, all duly certified under seal of his court.

Sec. 1408. NEW SECTION. 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.

Sec. 1409. NEW SECTION. INDIGENT'S RIGHT TO TRANSCRIPT ON APPEAL. If a defendant in a criminal cause has perfected an appeal from a judgment against him and shall satisfy the judge of the lower court that he is indigent, such judge may order the transcript made at the expense of the county where the defendant was tried. When an attorney of record is representing such indigent, said attorney shall make application to the lower court for the transcript.

Sec. 1410. NEW SECTION. INDIGENT'S APPLICATION FOR TRANSCRIPT IN OTHER CASES. If a defendant in a criminal cause has been granted discretionary review from an action of a lower court by the supreme court and the supreme court deems a transcript or portions thereof are necessary to proper review of the question or questions raised, the judge of the lower court shall order the transcript made at the expense of the county where the defendant was tried, if the defendant is indigent.

Sec. 1411. NEW SECTION. INDIGENT'S RIGHT TO COUNSEL. An indigent defendant is entitled to appointed counsel on the appeal of all indictable offenses. Such appointment is subject to the rules and regulations which are or may be

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promulgated by the supreme court of the state.

Sec. 1412. NEW SECTION. 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.

Sec. 1413. NEW SECTION. 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.

Sec. 1414. NEW SECTION. CERTIFICATE OF RELEASE. When an appeal is taken by the defendant and he is released, the clerk of the district court must give to the defendant or his 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 he acted with his return thereon.

Sec. 1415. NEW SECTION. APPEALS AND APPLICATIONS, WHEN DOCKETED, WHEN DETERMINED. When a proper appeal is perfected in a criminal case and the clerk's transcript of the record as required by section one thousand four hundred seven (1407) of this division is filed in the supreme court, the cause shall be docketed. Such causes shall take precedence over other business and the supreme court shall hear and determine appeals in criminal actions at the earliest time it may be done considering the rights of parties and proper administration of justice. A similar rule shall apply to applications for discretionary review.

Sec. 1416. NEW SECTION. FAILURE OF CLERK TO TRANSMIT PAPERS AS REQUIRED. Failure of the clerk of the district court to transmit all the papers as required in section one thousand four hundred seven (1407) of this division shall not prejudice the rights of the parties.

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Sec. 1417. NEW SECTION. PERSONAL APPEARANCE OF THE DEFENDANT. The personal appearance of the defendant in the supreme court on the trial of an appeal, or upon the hearing of a matter of discretionary review, is in no case necessary.

Sec. 1418. NEW SECTION. CLOSING ARGUMENT. The defendant is entitled to close the argument.

Sec. 1419. NEW SECTION. HEARING IN THE SUPREME COURT, RULES OF PROCEDURE. The record and case shall be presented to the supreme court as provided by its rules; and the provisions of law in civil procedure relating to the filing of decisions and opinions of the supreme court shall apply in such cases.

Sec. 1420. NEW SECTION. 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 supreme court. The supreme court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the lower court judgment. It may also dismiss the appeal or application if it determines that there has been no substantial miscarriage of justice, and no violation of the rights of the accused, and that the arguments do not present definite grounds for a hearing. The supreme court may also order a new trial, or reduce the punishment, but cannot increase it.

Sec. 1421. NEW SECTION. COSTS TO THE SUCCESSFUL DEFENDANT. If on appeal or application by the defendant, the judgment of the trial court is reversed or modified in his favor, he shall recover the cost of printing abstract and briefs (to a maximum of one dollar per page) to be paid by the county wherein the trial occurred.

Sec. 1422. NEW SECTION. REVERSAL--EFFECT. If a judgment against the defendant is reversed, such reversal shall be deemed an order for a new trial, unless the supreme court shall direct a different disposition. In reversing the case,

the supreme court may direct that the defendant be discharged and his bail exonerated, or if money is deposited instead, that it be returned to him.

Sec. 1423. NEW SECTION. AFFIRMANCE--EFFECT. On a judgment of affirmance against the defendant, the original judgment shall be carried into execution as the supreme court shall direct.

Sec. 1424. NEW SECTION. DECISION RECORDED AND TRANSMITTED. The decision of the supreme court with any opinion filed or judgment rendered must be recorded by its clerk. After the expiration of the period allowed for a rehearing, or as ordered by the court or provided by its rules, a certified copy of the decision and opinion shall be transmitted to the clerk of the trial court, filed and entered of record by him.

Sec. 1425. NEW SECTION. JURISDICTION OF APPELLATE COURT CEASES AFTER JUDGMENT. The jurisdiction of the supreme court shall cease after the certified copy of the decision and opinion is transmitted to the clerk of the trial court. All proceedings for executing the judgment shall be had in the trial court or by its clerk.

Sec. 1426. NEW SECTION. JUDGMENT ENFORCED. Unless some proceeding in the district court is directed, a copy of the judgment of the trial court and decision on appeal or review, or of the judgment and decision on appeal or review certified by the clerk of the trial court shall be delivered to the sheriff or proper officer as an execution. He shall be authorized to execute the judgment of the court, or take any legal measures required to bring the action to a conclusion.

Sec. 1427. NEW SECTION. 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 supreme court, shall have the period of his former confinement deducted from the period of confinement fixed on the last verdict of conviction by the district court.

DIVISION XV

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COSTS OF PROCEEDINGS AND COMPENSATION OF
GRAND JURY CLERKS, ATTORNEYS, WITNESSES AND OTHERS

Section 1501. NEW SECTION. COSTS PAYABLE BY STATE IN SPECIAL CASES. All costs and fees, including any award of attorney fees to a court-appointed attorney, incurred in any parole revocation proceedings or in any criminal case brought against an inmate of any state institution for a crime committed while confined in such institution, or for a crime committed by such inmate while placed outside the walls or confines of the institution under the control and direction of a warden, supervisor, officer, or employee thereof, or for a crime committed by such inmate during an escape or other unauthorized departure from such institution or from the control of a warden, supervisor, officer, or employee thereof, wherever the said inmate may have been placed by authorized personnel thereof, shall be paid out of the state treasury from the general fund in case the prosecution fails, or where such costs and fees, including an award of attorney fees to a court-appointed attorney, cannot be made from the person liable to pay the same, the facts being certified by the clerk of the district court under his seal of office to the state comptroller, including a statement of the amount of fees or costs incurred, such statement to be approved by the presiding judge in writing appended thereto or endorsed thereon.

Sec. 1502. NEW SECTION. 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 for time actually and necessarily employed in the performance of the duties prescribed in rule three (3), rules of criminal procedure.

Sec. 1503. NEW SECTION. WITNESSES CALLED TO COUNTY ATTORNEY INVESTIGATIONS. Witnesses subpoenaed by the county attorney pursuant to rule five (5), rules of criminal procedure, 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.

Sec. 1504. NEW SECTION. SPECIAL WITNESSES FOR INDIGENTS. Witnesses secured for indigent defendants under rule nineteen (19), rules of criminal procedure, must file a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant.

Sec. 1505. NEW SECTION. EXPERT WITNESSES FOR STATE AND DEFENSE. Notwithstanding the provisions of section six hundred twenty-two point seventy-two (622.72) of the Code, reasonable compensation as determined by the court shall be awarded expert witnesses, expert witnesses for indigents referred to in section one thousand five hundred four (1504) of this division, or called by the state in criminal cases.

Sec. 1506. NEW SECTION. 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.

Sec. 1507. NEW SECTION. FEES TO ATTORNEYS. An attorney appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by the district court judge, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. Such attorney need not follow the case into another county or into the supreme court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but

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if he does so his fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class A felony cases, two may be authorized.

Sec. 1508. NEW SECTION. SHERIFF'S FEES. For delivering prisoners under the change of venue provisions of rule ten (10), rules of criminal procedure, or transferring prisoners under section four hundred twenty-two (422) of this chapter, sheriffs are entitled to the same fees as are allowed for the conveyance of convicts to the penitentiary.

DIVISION XVI

DOUBLE JEOPARDY

Section 1601. NEW SECTION. EFFECT OF FORMER PROSECUTION.

1. A prosecution is barred if the defendant was formerly prosecuted for the same crime, based upon the same facts, if such former prosecution:

a. Resulted in either a conviction or an acquittal or in a determination that the evidence was insufficient to warrant a conviction; or

b. Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or

c. Was terminated without the consent of the defendant after the defendant had been placed in jeopardy, except where such termination shall have occurred by reason of: The illness or death of an indispensable party; or the inability of the jury to agree; or the impossibility of the jury arriving at a verdict. A defendant is in jeopardy when he is put on trial in a court of competent jurisdiction upon an indictment, information or complaint sufficient in form and substance to sustain a conviction, and in the case of trial by jury, when the jury has been impaneled and sworn, or where the case is tried to the court without a jury, when the court has begun to hear evidence.

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A conviction of an included offense is an acquittal of the offense charged.

2. A prosecution is barred if the defendant was formerly prosecuted for a different crime, or for the same crime based upon different facts, if such former prosecution had any of the following results:

a. Either a conviction or an acquittal and the subsequent prosecution is for a crime or crimes of which evidence has been admitted in the former prosecution and which might have been included as other counts in the complaint, indictment or information filed in such former prosecution or upon which the state then might have elected to rely; or was for a crime which involves the same conduct, unless each prosecution requires proof of a fact not required in the other prosecution, or the crime was not consummated when the former trial began.

b. Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution.

c. Was terminated without the consent of the defendant after the defendant had been placed in jeopardy, except where such termination shall have occurred by reason of: The illness or death of an indispensable party; or the inability of the jury to agree; or the impossibility of the jury arriving at a verdict, and the subsequent prosecution is for an offense of which the defendant could have been convicted if the former prosecution had not been terminated improperly.

3. A prosecution is barred if the defendant was formerly prosecuted in a district court of the United States or in a court of general jurisdiction of a sister state or in the district court of this state for a crime which is within the concurrent jurisdiction of this state, if such former prosecution had either of the following results:

a. Either a conviction or an acquittal, and the subsequent prosecution is for the same conduct, unless each prosecution

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requires proof of a fact not required in the other prosecution, or the offense was not consummated when the former trial began.

b. Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the prosecution in this state.

Sec. 1602. NEW SECTION. 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 vacated shall the defendant be subsequently prosecuted for a higher degree of the crime for which he was originally convicted.

Sec. 1603. NEW SECTION. 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 eighteen (18), rules of criminal procedure, shall be reversed, and the defendant shall first offer his evidence in support of his defense.

DIVISION XVII
SPECIAL POWERS OF POLICE, GOVERNOR, AND ATTORNEY GENERAL

Section 1701. NEW SECTION. 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 him; 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.

Sec. 1702. NEW SECTION. 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.

DIVISION XVIII

INTERSTATE EXTRADITION COMPACT

Section 1801. NEW SECTION. The interstate extradition compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE EXTRADITION COMPACT

The contracting states solemnly agree that:

Sec. 1802. NEW SECTION. The states which are parties to this agreement find that existing extradition procedures are cumbersome, costly and frequently result in unnecessary delay in the extradition of fugitives. They find further that the provisions of the United States Constitution and United States Code relating to extradition are meant to

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facilitate the return of fugitives; do not prescribe the exclusive means for return of fugitives; and do not prevent the states from establishing other procedures for this purpose.

Sec. 1803. NEW SECTION. As used in this compact, unless the context clearly requires otherwise:

1. "State" means any 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.

2. "Demanding state" means the state in which a crime has been committed and where a charge has been filed against a fugitive whose return for trial is sought.

3. "Asylum state" means the state in which a person for whom the warrant was issued has been found or arrested and from which his return to the demanding state is sought.

4. "Fugitive" means any person who is charged with a crime in the demanding state, or any person who has been convicted of a crime in the demanding state and has escaped from confinement or has broken the terms of his bail, probation or parole, and is no longer within the demanding state, whether his leaving the demanding state was voluntary or involuntary. For purposes of this division the term "fugitive" further includes a person in the asylum state charged with committing a crime in the demanding state by the doing of an intentional act outside the demanding state which resulted in such crime, as set forth in section one thousand eight hundred fifteen (1815) of this division.

5. "Local prosecuting authority" means the chief prosecuting attorney or his designee, of the governmental unit of the demanding state which has jurisdiction over the crime committed by the fugitive. When the return to the demanding state is required of a person who has been convicted of a crime in the demanding state and the fugitive has escaped from confinement or broken the terms of his bail, probation or parole, the term "local prosecuting authority" includes

the chief prosecuting attorney of the county in which the offense was committed, the parole board, and in the case of escapes the warden of the institution or the sheriff of the county from which the escape was made, and in such cases these officials may make demand for return of the fugitive in accordance with the provisions of this compact.

6. "Chief law enforcement officer" means county sheriff, chief of police or other chief law enforcement officer in the local governmental unit wherein the fugitive is located, and when the fugitive is confined in a penitentiary or reformatory, it includes the warden or chief administrative officer of that institution.

Sec. 1804. NEW SECTION. The local prosecuting authority of the demanding state shall have the authority to issue a demand for the return of a fugitive. The demand shall be made to a chief law enforcement officer of the local governmental unit in the asylum state where the accused has been found.

Sec. 1805. NEW SECTION. Demand for the extradition of a fugitive under this division shall be in writing or by other official communication setting forth the crime with which the fugitive is charged, or that the fugitive has escaped confinement or broken the terms of his bail, probation, or parole. Said demand shall allege that a crime was committed in the demanding state and that the person sought is a fugitive within the meaning of this compact.

Sec. 1806. NEW SECTION. A chief law enforcement officer of the local governmental unit in the asylum state who receives the demand is authorized to cause the arrest of the fugitive in accordance with the laws of the asylum state.

Sec. 1807. NEW SECTION. When an arrest has been made the fugitive shall be taken for an appearance before a judge of court of record who shall inform him of the demand made for his surrender and of the crime with which he is charged, or other reason for the demand as set forth in section one

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thousand eight hundred fifteen (1815) of this division. Said judge shall apprise the fugitive of his legal rights and shall advise said fugitive of his right to apply for a writ of habeas corpus.

Sec. 1808. NEW SECTION. If, at the fugitive's appearance, it appears that the person held is the person charged with having committed the crime alleged or has escaped confinement or broken the terms of his bail, probation, or parole and, except in cases arising under section one thousand eight hundred fifteen (1815) of this division, that he has fled from justice, the judge or magistrate before whom the fugitive is taken must, by warrant reciting the accusation, commit him to jail. Such commitment shall occur unless the accused give bail as provided in section one thousand eight hundred fourteen (1814) of this division or is otherwise legally discharged. When the accused is confined pursuant to this section, said confinement shall be for the time specified in the warrant, but not exceeding fifteen days, as will enable the arrest of the fugitive to be made under a warrant issued by the authorities of the state having jurisdiction of the crime. If a writ of habeas corpus is applied for, the time established in this section shall be extended until such writ is disposed of.

Sec. 1809. NEW SECTION. The local prosecuting authority of the demanding state shall cause a warrant to be issued to an agent, commanding him to receive the fugitive when delivered to him and convey him to the proper officer of the local jurisdiction in the demanding state.

Sec. 1810. NEW SECTION. Said designated agent of the demanding state may at all times enter the asylum state for the purpose of making demand for the surrender of the fugitive. Upon demand and proof of authority, the fugitive shall be released and surrendered to the agent's custody subject to the provisions of sections one thousand eight hundred eleven (1811) and one thousand eight hundred twelve (1812) of this

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division unless a petition for habeas corpus has been applied for and is pending before the court. All requirements to obtain extradition other than provided in this compact are hereby waived on the part of the state party hereto as to such fugitive.

Sec. 1811. NEW SECTION. If a criminal prosecution has been instituted against the fugitive under the laws of the asylum state and is still pending, the prosecuting authority of the asylum state in its discretion may either surrender him on demand or hold him until he has been tried and discharged or convicted and punished in the asylum state.

Sec. 1812. NEW SECTION. When it is desired to have returned to the demanding state a person sentenced in the asylum state with a crime, and such person is imprisoned, the governor of the asylum state may agree with the governor of the demanding state for the extradition of such person before the conclusion of his term or sentence upon condition that such person be returned to the asylum state as soon as the prosecution in the demanding state is terminated.

Sec. 1813. NEW SECTION. The guilt or innocence of the fugitive as to the crime of which he is charged is not reviewable by any official of the asylum state or in any proceeding in the asylum state after the demand for extradition. When a habeas corpus hearing is held pursuant to section one thousand eight hundred five (1805) of this division, the judge shall cause to be presented to the fugitive a certified copy of the indictment found or information from the state having jurisdiction of the crime, or a copy of any warrant which was issued thereupon; or a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the local prosecuting authority of the demanding state that the fugitive has escaped from confinement or has broken the terms of his bail, probation or parole. Notice of such habeas corpus hearing including the time and place thereof shall be given to the local

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prosecuting authority of the demanding state.

Sec. 1814. NEW SECTION. Unless the crime with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the demanding state, a judge or magistrate in the asylum state may admit the person arrested to bail by bond with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender. In the event of a violation of the conditions of said bond, forfeiture thereof and recovery thereon may be had as in the case of appearance bonds given by accused persons in criminal proceedings in the asylum state.

Sec. 1815. NEW SECTION. A chief law enforcement officer of the local governmental unit in the asylum state may surrender, on demand of the local prosecuting authority of the demanding state, any person in the asylum state charged in the demanding state in the manner provided in section one thousand eight hundred five (1805) of this division with committing an act in the asylum state, or in a third state, intentionally resulting in a crime in the demanding state. The provisions of this compact not otherwise inconsistent shall apply to such cases, even though the accused was not in the demanding state at the time of the commission of the crime, and has not fled therefrom.

Sec. 1816. NEW SECTION. The expenses incurred in extradition shall be assessed to the governmental unit of the demanding state seeking the return of the fugitive, but this provision shall not be construed to alter or affect any internal arrangements between a party state and its subdivisions as to the payment of costs or responsibilities therefor. These expenses shall include fees paid to the officers of the asylum state and all necessary and actual traveling expenses incurred in returning the prisoner.

Sec. 1817. NEW SECTION. Each state party to this compact

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 compact, and who shall provide, within and without the state, information necessary to the effective operation of this compact.

Sec. 1818. NEW SECTION. The governor of this state shall appoint an administrator of interstate extradition to serve in such capacity for a period and under terms determined by the governor. Said administrator shall fulfill the duties set forth in section one thousand eight hundred seventeen (1817) of this division and such other necessary duties as may be required for the administration of this compact.

Sec. 1819. NEW SECTION. This compact 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 compact 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 at the time such withdrawal takes effect.

Sec. 1820. NEW SECTION. This compact provides an alternate procedure to the uniform criminal extradition act, which remains in full force and effect; a state seeking return of a fugitive may proceed under this compact, or under the uniform criminal extradition act. Where another state seeks return of a fugitive under this compact, the governor of this state may intervene at any time prior to surrender of the fugitive and require the proceedings to be stayed subject to investigation and appropriate orders relating to custody of the fugitive by the governor.

Sec. 1821. NEW SECTION. This compact shall be liberally construed so as to effectuate its purposes. 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 party state or of the

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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 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 party hereto, 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.

Sec. 1822. NEW SECTION. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the interstate extradition compact and to cooperate with one another and with other party states in enforcing the compact and effectuating its purpose.

Sec. 1823. NEW SECTION. Copies of this division 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.

Sec. 1824. NEW SECTION. This compact may be cited as the interstate extradition compact.

DIVISION XIX

UNIFORM ACT TO SECURE WITNESSES FROM WITHOUT THE STATE

Section 1901. NEW SECTION. 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.

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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 his presence will be required for a number of days which shall be specified in such certification.

3. The certification described in subsection two (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 three (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 two (2) and three (3) of this section are complied with, he 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.

Sec. 1902. NEW SECTION. 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

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facts and specifying the number of days the witness will be required.

Sec. 1903. NEW SECTION. FEES AND ENFORCEMENT OF ORDER. A witness named in an order described in section one thousand nine hundred two (1902) of this division shall be entitled to ten cents per mile for each mile traveled by the most direct route to and from the proceedings he is required to attend, and shall also be entitled to ten dollars per day for each day spent in such travel or in attending the proceedings as a witness. Such amounts shall, upon proper claim being made, be paid from the court expense fund of the county.

If such witness fails without good cause to attend and testify as directed by such order he shall forfeit his right to receive mileage and per diem, and shall be guilty of contempt of court for which he may be punished accordingly.

Sec. 1904. NEW SECTION. EXEMPTIONS; ARREST, SERVICE OF PROCESS. If a person comes into this state in obedience to an order directing him to attend and testify in this state, he 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 his entrance into this state under the order.

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, he 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 his entrance into this state pursuant to the order to testify.

Sec. 1905. NEW SECTION. STATE. The word "state" shall include any state or territory of the United States and the District of Columbia.

CHAPTER 3

DIVISION I

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JUDGMENT AND SENTENCING PROCEDURES

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the "Iowa Corrections Code".

Sec. 102. NEW SECTION. JUDGMENT OF CONVICTION--TIME FOR PRONOUNCEMENT. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court shall fix a time for pronouncing judgment which shall be within a reasonable time, but not less than eight days after the plea is entered or the verdict is rendered, unless the defendant consents to a shorter time.

Sec. 103. NEW SECTION. PRESENTENCE INVESTIGATION. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of any public offense may be rendered, the court shall receive from the state 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, and, if the offense is a felony, shall order that a presentence investigation be made. If the offense is not a felony, the court may, in its discretion, order that a presentence investigation be made whenever the maximum period of confinement which may be imposed is in excess of thirty days.

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 or suspension of sentence and probation. The investigation shall be made by the probation and parole service, or by another appropriate agency as determined by the court.

Sec. 104. NEW SECTION. REPORT OF INVESTIGATION. Whenever a presentence investigation is ordered by the court, the investigator shall promptly inquire into: the defendant's characteristics, family and financial circumstances, needs, and potentialities; his criminal record and social history;

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the circumstances of the offense; the time the defendant has been in detention; and the harm to the victim, his immediate family, and the community. 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. With the approval of the court, a physical examination of the defendant may be ordered, or the defendant may be committed to a psychiatric facility for an evaluation of his personality and mental health. The results of any such examination shall be included in the report of the investigator.

Sec. 105. NEW SECTION. REPORT CONFIDENTIAL. The court may, in its discretion, make the presentence investigation report or parts of it available to the defendant, or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of any medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. Such reports shall be part of the record but shall be sealed and opened only on order of the court. In any case where the defendant is committed to the custody of the division of adult corrections, a copy of the presentence investigation report shall be sent to the director at the time of commitment.

Sec. 106. NEW SECTION. PRONOUNCING JUDGMENT AND SENTENCE. After receiving and examining all pertinent information, including the presentence investigation report, if any, the court shall consider the following sentencing options in the order presented below. 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 seven hundred two (702) of this chapter, the court may defer judgment and sentence for

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an indefinite period in accordance with division seven (VII) of this chapter.

2. If the defendant is neither a dangerous offender nor an incorrigible offender as defined by sections two hundred seven (207) and two hundred nine (209) of this chapter, 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 division seven (VII) of this chapter.

4. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both.

Sec. 107. NEW SECTION. 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 under which the defendant is sentenced.

Sec. 108. NEW SECTION. COMMITMENT. In imposing a sentence of confinement for more than ninety days, the court shall commit the defendant to the custody of the director of the division of adult corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of such commitment. The court shall make such order as is appropriate for the temporary custody of the defendant pending his transfer to the custody of the director.

Sec. 109. NEW SECTION. COMPUTATION OF TIME SERVED. The total number of days of confinement based in whole or in part on the charge for which the defendant is being sentenced shall be computed and credited by the court on any sentence of confinement, and a statement of the days so credited shall be incorporated into the sentence.

DIVISION II

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FELONIES

Section 201. NEW SECTION. CLASS A FELONY. 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 division of adult corrections for the rest of his life. Nothing in this chapter pertaining to deferred judgment, suspended sentence or probation shall apply to a class A felony, and no person convicted of a class A felony shall be released on parole unless the governor commutes the sentence to a term of years.

Sec. 202. NEW SECTION. RECORD REVIEWED. At any time before a person has served five years of a life sentence, the board of parole shall interview him and review his record. If, in the opinion of the board, he should be considered for release on parole, the board shall recommend to the governor that his sentence be commuted to a term of years. If his sentence is so commuted, he shall be eligible for parole as provided in division six (VI) of this chapter.

Sec. 203. NEW SECTION. INDETERMINATE SENTENCE. When a judgment of conviction of a felony other than a class A felony is entered against any person, the court, in imposing a sentence of confinement, shall commit him into the custody of the director of the division of adult corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by section two hundred ten (210) of this division nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided.

Sec. 204. NEW SECTION. RECONSIDERATION OF SENTENCE. For a period of fifty days from the date when a person convicted of a felony, other than a class A felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion

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or on the recommendation of the commissioner of social services, may order him 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 court's final order in any such proceeding shall be delivered to the defendant personally or by certified mail. Such action is discretionary with the court, and its decision to take such action or not to take such action is not subject to appeal. The provisions of this section notwithstanding, for the purposes of appeal, a judgment of conviction of felony is a final judgment when pronounced.

Sec. 205. NEW SECTION. PLACE OF CONFINEMENT. The director of the division of adult 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 him from one institution to another during his period of confinement.

Sec. 206. NEW SECTION. RELEASE ON PAROLE. A person who has been committed to the custody of the director of the division of adult corrections shall remain in such custody until his release by the order of the board of parole, in accordance with the law governing paroles, or until the maximum term of his confinement, as fixed by law, has been completed.

Sec. 207. NEW SECTION. MINIMUM SENTENCE--USE OF A FIREARM. 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 he or she was in the immediate possession and control of a firearm, displayed a firearm in a threatening manner, or was armed with a firearm 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 pursuant to this section shall not be eligible for parole until he or she has served the minimum sentence of confinement imposed by this section.

Sec. 208. NEW SECTION. DANGEROUS OFFENDER. The follow-

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ing are dangerous offenders:

1. Any person convicted of a class B felony.

2. A person convicted of a class C or a class D felony; whose conduct, including but not limited to his conduct in committing the offense of which he stands convicted, is characterized by a pattern of repetitive or compulsive behavior which endangers the life or physical well-being of others, or by aggressive behavior with heedless indifference to consequences, and who is found to have a personality dangerously predisposed to physical violence.

Sec. 209. NEW SECTION. CLASSIFICATION OF DANGEROUS OFFENDERS. No person shall be classified as a dangerous offender under section two hundred seven (207), subsection two (2), of this division unless he has first been referred to

the Iowa security medical facility for examination, and a report has been received from such facility.

Sec. 210. NEW SECTION. INCORRIGIBLE OFFENDERS. An incorrigible 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 he is convicted, it is so classified at the time of his conviction.

Sec. 211. NEW SECTION. MAXIMUM TERMS OF IMPRISONMENT. 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:

1. A dangerous offender shall be confined for no more than twenty-five years.

2. An incorrigible offender shall be confined for no more than fifteen years.

3. A class C felon, not a dangerous or incorrigible offender, shall be confined for no more than ten years, and in addition may be sentenced to a fine of not more than five thousand dollars.

4. A class D felon, not a dangerous or incorrigible offender, shall be confined for no more than five years, and in addition may be sentenced to a fine of not more than one thousand dollars.

Sec. 212. NEW SECTION. APPLICATION FOR COMMITMENT. Whenever the commissioner of social services has reason to believe that a person who has been committed to the custody of the department as a result of conviction of a public offense is suffering from a personality disorder or mental illness indicating an abnormal propensity to do violence to others or to commit sexual offenses with children, he shall apply to the district court of the county in which such person is confined for an order continuing him in the custody of the

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department of social services. The petition shall state that such person is suffering from a personality disorder or mental illness which indicates an abnormal propensity to do violence to others or to commit sexual offenses with children, and that his own best interest or the interest of society require his continued confinement. The petition shall have appended a detailed evaluation of his personality and mental health by the security medical facility or other psychiatric facility. The person against whom the application is made shall be represented by counsel, and may present evidence to the court. The attorney general shall represent the commissioner in the matter.

Sec. 213. NEW SECTION. COMMITMENT. If the court, after considering the past history of such person, his conduct while in confinement, and all available medical and other expert evidence, finds that the allegations of the petition are true, it shall order the commitment. The person so committed shall be provided treatment, and shall be subjected only to such restraints as may be reasonable to protect others and himself from harm, and to assure his continued treatment. Confinement, if necessary, shall be in a mental health institution or a security medical facility. Upon the recommmendation of the chief officer of such institution, he may be released under the supervision of the department of social services, with the department providing such aid, supervision, and continued treatment as may be necessary; or he may be released to a hospital or other institution not administered by the department of social services, either in or outside the state. Any such commitment shall be for a period of five years, at the expiration of which the commissioner may apply to the district court of the county in which such person is being kept for a continuation of such commitment on the same conditions as the original commitment.

DIVISION III

MISDEMEANORS

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Section 301. NEW SECTION. SENTENCE FOR MISDEMEANOR. When a person is convicted of a misdemeanor and a specific penalty is not provided for, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

1. For an aggravated misdemeanor, imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both.

2. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

3. For a simple misdemeanor, imprisonment not to exceed thirty days, or a fine not to exceed one hundred dollars; provided, that in the case of theft in the fourth degree of property exceeding fifty dollars in value the sentence may include imprisonment not to exceed sixty days, or a fine not to exceed two hundred dollars, or both.

Sec. 302. NEW SECTION. RECONSIDERATION OF 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 him 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 court's final order in any such proceeding shall be delivered to the defendant personally or by certified mail. Such action is discretionary with the court and its decision to take such action or not to take such action is not subject to appeal. The provisions of this section notwithstanding, for the purposes of appeal a judgment of conviction is a final judgment when pronounced.

Sec. 303. NEW SECTION. WORK-RELEASE. The court may direct that a prisoner, sentenced to confinement for ninety days or less, be released from custody during specified hours,

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as provided by sections three hundred fifty-six point twenty-six (356.26) through three hundred fifty-six point thirty-six (356.36) of the Code.

Sec. 304. NEW SECTION. PLACE OF CONFINEMENT. All persons sentenced to confinement for a period of ninety days or less

shall be confined in a place to be furnished by the county where the conviction was had. All persons sentenced to confinement for a period of more than ninety days shall be committed to the custody of the director of the division of adult corrections to be confined in a place to be designated by the director and the cost of such 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 such units for the confinement of such persons.

Sec. 305. NEW SECTION. LOCAL FACILITIES PREFERRED. 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.

Sec. 306. NEW SECTION. 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.

DIVISION IV

BOARD OF PAROLE

Section 401. NEW SECTION. BOARD OF PAROLE. The board of parole shall consist of three electors of the state. Not more than two members shall belong to the same political party. One member shall be a practicing attorney-at-law at the time of his appointment. Each member shall serve for six years from July 1 of the year of his appointment, except appointees to fill vacancies who shall serve for the balance of the unexpired term. The chairman of the board shall be the member whose term first expires.

Sec. 402. NEW SECTION. APPOINTMENT. The governor shall, during each regular session of the general assembly and within sixty days after the convening thereof, appoint, with the

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approval of two-thirds of the members of the senate, a successor to that member of the board whose term will expire on July 1 following. Appointments may be made when the general assembly is not in session, to fill vacancies, but such appointments shall be subject to the approval of two-thirds of the members of the senate when next in session. Vacancies occurring during a session of the general assembly shall be filled as regular appointments are made and before the end of said session, and for the unexpired portion of the regular term.

Sec. 403. NEW SECTION. INITIAL APPOINTMENT OF BOARD. Persons who are serving as members of the board of parole before the effective date of the act shall continue to serve as such for the unexpired portion of the term for which each was appointed, with the conditions and salary of the initial appointment.

Sec. 404. NEW SECTION. INSTITUTIONAL REPRESENTATIVE. The director of the division of adult corrections shall designate as institutional representative one member of the staff of each of the following: the Iowa state penitentiary, the men's reformatory, the women's reformatory, and the security medical facility. The institutional representatives shall serve as such until his employment at such institution is terminated or another person is designated as institutional representative. The institutional representative shall sit only when an inmate of his institution is being considered by the board for any reason, and shall participate in their deliberations but shall not be a voting member.

Sec. 405. NEW SECTION. EXPENSES OF MEMBERS. Each member of the board, the executive secretary, and all other employees shall, in addition to salary, be entitled to receive their necessary maintenance and traveling expenses while engaged in official business.

Sec. 406. NEW SECTION. ADMINISTRATION. The board of parole shall be responsible directly to the governor. The

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board of parole shall appoint an executive secretary and employ a clerical staff sufficient to carry on the necessary duties of the board. The board shall employ not less than two persons who shall serve as liaison personnel between the board, inmates and staff at the state's penal and correctional facilities and who shall perform other duties designated by the board of parole. The board shall submit to the state comptroller an estimate of the funds needed for salaries, maintenance, and office supplies at the time and in the manner provided by section eight point twenty-three (8.23) of the Code.

DIVISION V

PROBATION AND PAROLE SERVICE

Section 501. NEW SECTION. PROBATION AND PAROLE SERVICE. The probation and parole service is part of the department of social services and is supervised by the director of the bureau of adult corrections. It shall consist of parole officers who shall perform such duties as are assigned to them by law and as may be assigned to them by the director.

Sec. 502. NEW SECTION. PAROLE OFFICERS. Parole officers, while performing their duties as such, are peace officers and have all of the powers and authority of peace officers. Parole officers shall investigate all persons referred to them for investigation by the chief parole officer or by any court to which they may be assigned. They shall furnish to each person released under their supervision a written statement of the conditions. They shall keep informed of his conduct and condition and shall use all suitable methods to aid and encourage him to bring about improvement in his conduct and condition. Parole officers shall keep records of their work, shall make reports as required by the court, and shall perform other such duties as may be assigned to them by the chief parole officer or the court. They shall coordinate their work with that of other social welfare agencies operating in the area to which they are assigned.

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Sec. 503. NEW SECTION. PAROLE RELIEF FUND. There is hereby established, from any unappropriated funds in the state treasury, a fund of twelve hundred fifty dollars which shall be known as the parole relief fund. The treasurer of the state shall continue to maintain said fund in said amount. Said fund may be used for the relief of paroled prisoners who are in distress because of illness, loss of employment, or conditions creating personal need. In no instance shall the total amount advances to a prisoner exceed one hundred dollars. The prisoner, at the time of receiving an advancement, shall execute and deliver to his parole officer his written obligation to repay the same during the period of his parole. When so paid, the amount shall be deposited with the treasurer of the state and credited to the fund from which drawn. Such fund shall be drawn on vouchers executed by the director of the bureau of adult corrections in favor of said needy person. Each voucher shall show that the advancement was ordered by the chief parole officer.

Sec. 504. NEW SECTION. LOCAL PROBATION AND PAROLE SERVICES AUTHORIZED. The district court in any judicial district may designate any person or agency to perform the functions of the probation and parole services as to any person not under the supervision of the department of social services and subject to the jurisdiction of that court. The probation and parole services may cooperate with and use the facilities of any such local agency when authorized to do so by the commissioner of social services.

DIVISION VI

PAROLES

Section 601. NEW SECTION. PAROLE. Parole is the release of a person who has been committed to the custody of the commissioner of social services by reason of his commission of a public offense prior to the expiration of his term, subject to supervision by the department of social services and on conditions imposed by the department.

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Sec. 602. NEW SECTION. AUTHORITY OF PAROLE BOARD. The board of parole shall promulgate regulations regarding a system of paroles from correctional institutions, and shall direct, control, and supervise the administration of such system of paroles. The board shall determine which of those persons who have been committed to the custody of the director of the division of adult corrections, by reason of their conviction of a public offense, shall be released on parole.

Sec. 603. NEW SECTION. STANDARDS FOR RELEASE ON PAROLE. A parole shall be ordered only for the best interest of society, not as an award of clemency. The board shall release on parole any person whom it has the power to so release, when in its opinion there is reasonable probability that such person can be released without detriment to the community or to himself. A person's release is not a detriment to the community or himself when he is able and willing to fulfill the obligations of a law-abiding citizen, as the board shall determine.

Sec. 604. NEW SECTION. PAROLE PROCEDURE. Within one year after the commitment of any person other than a class A felon to the custody of the director of the division of adult corrections, a member of the board shall interview him. Thereafter, at regular intervals, not to exceed three years, the board shall interview him and consider his prospects for parole. At such time, the board shall consider all pertinent information regarding this person, including the circumstances of his offense, any presentence report which may be available, the previous social history and criminal record of such person, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied

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unless the defendant has served at least one-half of the maximum term of his sentence. Before ordering the parole of any person, the board may have such person appear before it and may interview him. Every person while on parole shall be under the supervision of the department of social services, which shall prescribe regulations for governing persons on parole. The board may

adopt such other rules not inconsistent with the above as it may deem proper or necessary for the performance of its functions.

Sec. 605. NEW SECTION. INFORMATION FROM CORRECTION PERSONNEL. It shall be the duty of all persons employed in any correctional institution to 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 under this Act, to provide for the board or such representatives facilities for communicating with and observing such person, and to furnish to the board such reports as the board shall require 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.

Sec. 606. NEW SECTION. INFORMATION FROM OTHER SOURCES. 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.

Sec. 607. NEW SECTION. 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 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

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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.

Sec. 608. NEW SECTION. PROVISION FOR PAROLEE. When a person is placed on parole he shall receive from the state appropriate clothing and transportation to the place where he is to reside. At the discretion of the board, provisions may be made for the temporary maintenance of such person.

Sec. 609. NEW SECTION. ASSIGNMENT TO PAROLE OFFICER. A person released on parole shall be assigned to a parole officer by the chief parole officer. Both he and his parole officer shall be furnished with the conditions of his parole and the regulations which he will be required to observe, in writing. The parole officer shall explain these conditions and regulations to him, and supervise, assist, and counsel him during the term of his parole.

When a person is released on parole, the chief parole officer shall notify the sheriff in the county and the chief of police of any cities in the county where the person released on parole is to reside of the release of that person, and the terms and conditions of the person's parole.

Sec. 610. NEW SECTION. PAROLE OUTSIDE STATE. 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 and regulations as the board of parole may impose.

Sec. 611. NEW SECTION. 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 return of such persons to the contracting states for violation of the terms of their parole

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or probation.

Sec. 612. NEW SECTION. DETAINERS. 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.

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 his trial.

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 his trial, the detainer shall be held to be invalid and the parole board shall disregard such detainer in considering a prisoner for parole.

Sec. 613. NEW SECTION. DISCHARGE FROM PAROLE AND RESTORATION OF CIVIL RIGHTS. Unless sooner discharged, a person released on parole shall be discharged when his term of parole equals the period of imprisonment specified in his 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 it shall determine that any person on parole is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, it shall discharge him from parole. In either event, discharge from parole shall terminate his sentence, and shall have the effect of restoring the right to vote and hold public office, and the certification of discharge shall so state.

Sec. 614. NEW SECTION. PAROLE TIME COUNTED. The time when a prisoner is on parole from the institution shall be held to apply upon the sentence against the parolee even if

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the parole is subsequently revoked, except that the time when the parolee is in violation of the terms of his parole agreement shall not apply upon the sentence.

The time when a prisoner is absent from the institution by reason of an escape shall not apply upon the sentence against the prisoner.

DIVISION VII

DEFERRED JUDGMENTS, SUSPENDED SENTENCES AND PROBATION

Section 701. NEW SECTION. PROBATION. Probation is the procedure under which a defendant, against whom a judgment of conviction of a public offense may be entered, is released by the court subject to supervision by the probation and parole service.

Sec. 702. NEW SECTION. DEFERRED JUDGMENT OR SUSPENDED SENTENCE. Pursuant to section one hundred six (106) of this chapter, 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 either of the options contained in subsections one (1) and two (2) of this section. However, this section shall not apply to a forcible felony or a violation of section two hundred four point four hundred one (204.401), subsection one (1) or two (2) of the Code, to which section two hundred four point four hundred nine (204.409), subsection two (2) of the Code is not applicable and which is not proved to be an accommodation offense under section two hundred four point four hundred ten (204.410) of the Code.

1. With the consent of the defendant, the court may defer judgment and place the defendant on probation upon such conditions as it may require, or defer sentence and place the defendant as provided in section seven hundred nine (709) of this division. Upon fulfillment of the conditions of probation the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in division eight (VIII)

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of this chapter.

However, this subsection shall not apply if any of the following is true:

a. The offense is a violation of section nine hundred seven (907) of the Iowa Criminal Code and the child is twelve years of age or under.

b. The defendant is a dangerous offender as defined in section two hundred seven (207) of this chapter.

c. 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 he was convicted at the time of his conviction.

d. 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.

e. 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.

2. 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.

Sec. 703. NEW SECTION. DEFERRED JUDGMENT DOCKET. Any deferment of judgment under this subsection shall be reported promptly to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment

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against the defendant. The permanent record provided for in this subsection shall constitute a confidential record exempted from public access under section sixty-eight A point seven (68A.7) of the Code and shall be available only to justices of the supreme court, district judges, district associate judges, and judicial magistrates requesting information pursuant to this subsection.

Sec. 704. NEW SECTION. STANDARDS FOR RELEASE ON PROBATION. Before deferring judgment 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 the age of the defendant; his prior record of convictions and prior record of deferments of judgment if any; his employment circumstances; his family circumstances; the nature of the offense committed; and such other factors as are appropriate. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment or to suspend sentence, and its decision on the length of probation.

Sec. 705. NEW SECTION. CONDITIONS OF PROBATION. The court, in ordering probation, may impose any reasonable rules and conditions which will promote rehabilitation of the defendant and protection of the community, including adherence to regulations generally applicable to persons released on parole.

Sec. 706. NEW SECTION. LENGTH OF PROBATION. The length of the probation shall be for such term as the court may 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.

If the person is ordered placed under the custody, care and supervision of the probation and parole service, the term of probation shall be determined by the board of parole and the probation of the defendant shall be supervised by the

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probation and parole service. The length of the probation shall not be less than one year and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled, as provided in section seven hundred eight (708) of this division.

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.

Sec. 707. NEW SECTION. SUPERVISION DURING PROBATIONARY PERIOD. A person released on probation shall be assigned to a parole officer. Both he and his parole officer shall be furnished with the conditions of his probation and the regulations which he will be required to observe, in writing. The parole officer shall explain these conditions and regulations to him, and shall supervise, assist, and counsel him during the term of his probation.

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 probation and parole service. The chief parole officer may also accept the custody, care and supervision of any person granted probation or parole from a sentence to a term in a county jail. Jurisdiction of these persons shall remain with the sentencing court. The chief parole officer shall not, however, accept the custody, care and supervision of any person who in his judgment could not be properly supervised.

In each case wherein the court shall order said person committed to the custody, care, and supervision of the probation and parole service, the clerk of the district shall

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at once furnish the chief parole officer 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 chief parole officer, by letter, that the defendant has been placed under the supervision of the probation and parole service and give to the chief parole officer 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 him. If the defendant is confined in the county jail at the time of sentence, the court may order him held until arrangements are made by the probation and parole service for his employment and he 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 him to remain in the county wherein he has been convicted and sentenced and report to the sheriff as to his whereabouts.

Sec. 708. NEW SECTION. DISCHARGE FROM PROBATION. At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of any person from probation. At the expiration of the period of probation, in cases where the court fixes the term of probation, the court shall order the discharge of such person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to such person. A person who has been discharged from probation shall no longer be held to answer for his offense. Upon discharge from probation, if judgment has been deferred under section seven hundred two (702) of this division, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the supreme court administrator as required by section seven hundred three (703) of this division shall not be expunged. The court's record shall never be expunged in any other circumstances except as provided in section six

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hundred two point fifteen (602.15) of the Code.

Sec. 709. NEW SECTION. LOCAL CORRECTIONAL PROGRAM. The court may defer sentencing of any person convicted of a class D felony, or a misdemeanor and order such person to participate in a locally administered correctional program, under such conditions of confinement and surveillance as the court shall prescribe. The court shall retain jurisdiction over such person until such time as he shall be withdrawn from the program by the court. Upon a showing that such person is not cooperating with the program, or is not responding to it, the court may withdraw him from the program and impose any sentence authorized by law. Before taking such action, the court shall give him an opportunity to be heard on any matter relevant to the proposed action.

Sec. 710. NEW SECTION. RELEASE AFTER COMPLETION. When the court has determined that any person ordered to participate in a locally administered correctional program has successfully completed such program, the court shall order such person to be released on probation. The provisions of sections six hundred three (603) through six hundred eight (608), inclusive, of this chapter, shall apply to such release.

Sec. 711. NEW SECTION. 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.

Sec. 712. NEW SECTION. RESTITUTION.

1. As used in this section, unless the context otherwise requires:

a. "Victim" means any person who has suffered pecuniary damages as a result of the defendant's criminal activities. However, with respect to any part of a victim's pecuniary damages paid by an insurer, the insurer shall be regarded as the victim only if the insurer has no right of subrogation and the insured has no duty to pay the proceeds of restitu-

tion to the insurer.

b. "Pecuniary damages" means all damages which a victim could recover against the defendant 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.

c. "Criminal activities" includes any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered and any other crime committed after July 1, 1972 which is admitted or not contested by the defendant, whether or not prosecuted. However, "criminal activities" does not include misdemeanors under chapter three hundred twenty-one (321) of the Code.

d. "Restitution" means full or partial payment of pecuniary damages to a victim.

2. It is the policy of this state that restitution be made by each violator of the criminal laws to the victims of his criminal activities to the extent that the violator is reasonably able to do so. This section shall be interpreted and administered to effectuate this policy.

3. If the trial court exercises either of the sentencing options under section seven hundred two (702) of this division, the court shall require as a condition of probation that the defendant, in cooperation with the probation officer assigned to the defendant, promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is presently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during his probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that he will not be able to make

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any restitution, he shall so state and shall specify the reasons. If the defendant believes that no person suffered pecuniary damages as a result of the defendant's criminal activities, he shall so state.

4. The defendant's plan of restitution and the comments of his probation officer shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it and providing for restitution payments to the extent that the defendant is or may become reasonably able to make restitution, taking into account the factors enumerated in subsection five (5) of this section. Compliance with the plan of restitution as approved or modified by the court shall be a condition of the defendant's probation. Restitution payments shall be made to the clerk unless otherwise directed by the court. The court thereafter may modify the plan at any time upon the defendant's request or upon the court's own motion. If the plan as approved or modified does not require full payment of pecuniary damages to all victims, or if the court determines that the defendant is not able and will not be able to make any restitution at any time during his probation period or that no person suffered pecuniary damages as a result of the defendant's criminal activities, the court shall file a specific written statement of its reasons for and the facts supporting its action or determination.

5. The probation officer when assisting the defendant in preparing the plan of restitution, and the court before approving or modifying the plan of restitution, shall consider the physical and mental health and condition of the defendant, his age, his education, his employment circumstances, his potential for employment and vocational training, his family circumstances, his financial condition, the number of victims, the pecuniary damages of each victim, what plan of restitution will most effectively aid the rehabilitation of the defendant, and such other factors as shall be appropriate. The proba-

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tion officer shall attempt to determine the name and address of each victim and the amount of his pecuniary damages.

6. The clerk shall mail to each known victim a copy of the court's order approving or modifying the plan of restitution, including the court's statement, if any, under subsection four (4) of this section.

7. 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 restitution.

8. Failure of the defendant to comply with subsection three (3) of this section or to comply with the plan of restitution 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 restitution or extend the period of time for restitution, but not beyond the maximum probation period specified in section seven hundred six (706) of this division.

9. This section and proceedings under this section shall not limit or impair the rights of victims to sue and recover damages from the defendant in a civil action. However, any restitution payment by the defendant 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. The fact that restitution was required or made shall not be admissible as evidence in a civil action unless offered by such defendant.

Sec. 713. NEW SECTION. PROSECUTIONS PROHIBITED. The action of any court in deferring judgment or conviction in a criminal case prior to the effective date of this Act is valid. No person previously prosecuted shall be tried, sentenced, or convicted based on the same facts as in a prior prosecution on the grounds that a sentence, conviction, or judgment as a result of that prosecution was deferred, and the deferment was later declared by the supreme court of this state to be unauthorized by law. This section shall not apply to any case in which an appeal was pending on June 1, 1973.

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DIVISION VIII

VIOLATIONS OF PAROLE OR PROBATION

Section 801. NEW SECTION. ARREST OF PAROLE VIOLATOR. A parole officer having reasonable grounds to believe that any person released on parole has violated the conditions of his parole may arrest such person, or he may make a complaint before a magistrate, charging such violation, and if it appears from such complaint, or from affidavits filed with it, that there is probable cause to believe that such person has violated the terms of his parole, he shall issue a warrant for the arrest of such person.

Sec. 802. NEW SECTION. INITIAL APPEARANCE. 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 that time the alleged parole violator shall be furnished with a written notice of the claimed violation, shall be advised of his right to appointed counsel under rule twenty-six (26) of the rules of criminal procedure, and shall be given notice that a hearing will take place and that its purpose is to determine whether there is probable cause to believe that he has committed a parole violation.

The magistrate may order the alleged parole violator confined in the county jail or may order the alleged parole violator released on bail under such terms and conditions as the magistrate may require. Admittance to bail is discretionary with the magistrate and is not a matter of right.

Sec. 803. NEW SECTION. PLACE OF PROBABLE CAUSE HEARING. The probable cause hearing shall be held in the same county as the alleged parole violator had his or her initial appearance. The clerk of court shall provide a room suitable for the probable cause hearing.

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Sec. 804. NEW SECTION. PROBABLE CAUSE HEARING. At the probable cause hearing, a liaison officer appointed pursuant to section four hundred six (406) of this chapter shall determine whether there is probable cause to believe that the alleged parole violator has violated his parole. The alleged parole violator shall be informed of the evidence against him. He shall be given an opportunity to be heard in person and to present witnesses and other evidence on his behalf. He shall have the right to confront and cross-examine those furnishing evidence against him, except where the liaison officer finds that a witness would be subjected to risk or harm if his identity were disclosed.

Sec. 805. NEW SECTION. WAIVER OF PROBABLE CAUSE HEARING. The alleged parole violator may waive the probable cause

hearing, in which event the liaison officer shall proceed as upon a finding of probable cause. Before accepting a waiver of hearing, the liaison officer shall inform the alleged violator of the charge against him, of his right to a hearing to determine whether there is probable cause to believe that he has violated his parole, and that if he waives the hearing that he will be committed to the custody of the department of social services without further proceedings, to await the determination of his future status by the parole board. The liaison officer shall make a verbatim record of the proceedings in which the hearing is waived.

Sec. 806. NEW SECTION. DISPOSITION BY LIAISON OFFICER. If it appears from the evidence that there is no probable cause to believe that the arrested person has violated the conditions of his parole, the liaison officer shall order him to be released from custody and continued on parole. If it appears that there is probable cause to believe that the arrested person has violated the conditions of his parole, the liaison officer shall commit him to the custody of the department of social services, and the procedure prescribed in section one hundred eight (108) of this chapter shall apply to such commitment; or the magistrate may admit him to bail as provided in section eight hundred two (802) of this chapter. The liaison officer shall make a summary of the testimony and other evidence considered by him and a statement of the facts relied on by him as a basis for his finding of probable cause or no probable cause, and shall without delay forward them together with all documents relating to the matter to the executive secretary of the parole board. If the alleged parole violator has waived the probable cause hearing, the verbatim record of that proceeding shall be forwarded in lieu

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of the summary of evidence and statement of facts.

Sec. 807. NEW SECTION. ACTION BY PAROLE BOARD. Upon a finding of probable cause to believe that a parole violation has occurred, the board of parole shall proceed without unreasonable delay to hear the charge of parole violation. Upon receipt of the record prepared and forwarded by the liaison officer, the board shall fix a time and place for such hearing and shall notify the alleged violator and his attorney of record and the department of social services. The alleged violator shall be given an opportunity to be heard by the board under such rules as the board shall adopt. The inquiry shall be limited to the following two matters: 1. Did the alleged parole violation actually occur? 2. If the violation did occur, should the violator's parole be revoked? If the board determines that the parole should be revoked, it shall make an order revoking the parole. The board shall furnish the violator with a written statement of the facts relied upon to establish a violation and the reasons for revoking parole.

Sec. 808. NEW SECTION. PROCEEDING WITH ARREST. The board of parole may receive from a parole officer a charge or complaint of parole violation against any parolee and may proceed to a hearing on such charge in any case where the alleged violator has not been arrested or has been arrested and discharged by the liaison officer on a finding of no probable cause. The presence of the alleged violator at such hearing shall be secured by summons. A statement of the charge against him shall accompany the summons, and his parole officer shall give him such assistance as he may need to get to the place of the hearing. Travel expenses, if any, shall be paid by the board. If he fails without good cause to appear as commanded by the summons, such failure shall be considered a violation of the parole and the board may proceed to revoke his parole. If the parole is revoked, the board shall issue

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a warrant for his arrest and return to the custody of the department of social services. Upon his return to custody, the board shall give him an opportunity to present any matters in defense or mitigation of his conduct if he so requests.

Sec. 809. NEW SECTION. DISPOSITION OF VIOLATOR. If the parole of any parole violator is revoked, the violator shall remain in the custody of the department of social services under the terms of his original commitment. If the parole of any parole violator is not revoked, the board shall order his release subject to the terms of his parole with any modifications that the board shall determine proper.

Sec. 810. NEW SECTION. VIOLATION OF PROBATION. A parole officer or other agency charged with the supervision of a probationer as authorized by section five hundred four (504) of this chapter having reasonable grounds to believe that any person released on probation has violated the conditions of his probation shall proceed by arrest or summons as in the case of a parole violation. The functions of the magistrate 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. Where the parole officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing where 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 thereby. If the violation is established, the court may continue the probation with or without an alteration of the conditions of probation, or may revoke the probation and may require the defendant to serve the sentence imposed, or any lesser sentence, and,

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if imposition of sentence was deferred, may impose any sentence which might originally have been imposed.

Sec. 811. NEW SECTION. CONVICTION OF OTHER OFFENSE. When the alleged violation consists of a conviction of a public offense in this or any other state, such conviction shall be proved by a certified copy of the judgment of conviction, together with evidence that the alleged violator is the person against whom the judgment was rendered. Neither the liaison officer, court, nor board of parole shall re-try the facts underlying such conviction.

DIVISION IX

FINES

Section 901. NEW SECTION. 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.

Sec. 902. NEW SECTION. FINE IN ADDITION TO IMPRISONMENT. The court may impose a fine in addition to confinement, where such is authorized.

Sec. 903. NEW SECTION. PAYMENT IN INSTALLMENTS. The court may, in its discretion, order a fine to be paid in installments, or may fix a date in the future for the payment of the fine, whenever it appears that the defendant cannot make immediate payment, or should not be made to do so.

Sec. 904. NEW SECTION. 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 asso-

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ciation 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 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 one (1) of this section shall be subtracted from the damages recovered by the state.

Sec. 905. NEW SECTION. NONPAYMENT OF FINES. Any person who is able to pay a fine, or an installment of a fine, and who refuses to do so, or who fails to make a good faith effort to pay his fine, or any installment thereof, shall be held in contempt of court.

Sec. 906. NEW SECTION. FINE AS JUDGMENT. 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.

CHAPTER 4

COORDINATING AMENDMENTS

Section 1. Section seven point ten (7.10), Code 1975, is amended to read as follows:

7.10 EMERGENCY HIGHWAY PEACE OFFICERS. Whenever the governor is satisfied that a state of emergency exists, or is likely to exist, on the public streets or highways of this state, because of violations of chapter 321, he shall designate any employee or employees of this state as peace officers pursuant to ~~section 748.3, subsection 6~~ chapter two (2),

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section one hundred four (104), subsection seven (7), paragraph i, of this Act, until such time as the governor is satisfied the state of emergency is ended.

Sec. 2. Section eight point forty (8.40), Code 1975, is amended to read as follows:

8.40 MISDEMEANORS--REMOVAL- (IMPEACHMENT. A refusal to perform any of the requirements of this chapter, and the refusal to perform any rule or requirement or request of the governor or the state comptroller made pursuant to or under authority of this chapter, by any board member, commissioner, director, manager, building committee, or other officer or person connected with any institution, or other state department or establishment as herein defined, shall subject the offender to a penalty of two hundred fifty dollars, to be recovered in an action instituted in the district court of Polk county by the attorney general for the use of the state~~, and shall also constitute a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court~~. If such offender be not an officer elected by vote of the people, such offense shall be sufficient cause for removal from office or dismissal from employment by the governor upon thirty days' notice in writing to such offender; and, if such offender be an officer elected by vote of the people, such offense shall be sufficient cause to subject the offender to impeachment.

Sec. 3. Section eleven point fourteen (11.14), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

A report of such examination shall be made in triplicate signed and verified by the officers making the examination; one copy to be filed with the auditor of state, one copy with the officer under investigation, and one copy to the county auditor who shall transmit same to the board of supervisors if a county office is under investigation, or with the president of the school board if a school is under investigation, or with the mayor and the council if a city office is under

examination. All reports shall be open to public inspection, including copies on file in the office of the state auditor, and refusal on the part of any public official to permit such inspection when such reports have been filed with him shall constitute a simple misdemeanor ~~and shall be punishable by a fine not to exceed fifty dollars or by imprisonment in the county jail not to exceed fifteen days~~.

Sec. 4. Section eleven point nineteen (11.19), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

All reports shall be open to public inspection, including copies on file in the office of the state auditor, and refusal on the part of any public official to permit such inspection when such reports have been filed with him, shall constitute a simple misdemeanor ~~and shall be punishable by a fine not to exceed fifty dollars or by imprisonment in the county jail not to exceed fifteen days~~.

Sec. 5. Section eighteen point ten (18.10), Code 1975, is amended to read as follows:

18.10 CAPITOL BUILDINGS AND GROUNDS--RULES. The director shall establish, publish, and enforce rules regulating and restricting the use by the public of the capitol buildings and grounds. The rules when established shall be posted in conspicuous places about the buildings and grounds. Any person violating any rule, except a parking regulation, shall be guilty of a simple misdemeanor ~~and upon conviction be punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~.

Sec. 6. Section nineteen A point twenty (19A.20), Code 1975, is amended to read as follows:

19A.20 PENALTY. Any person who willfully violates any provision of this chapter or any rules adopted in accordance with this chapter, where no other penalty is prescribed, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished therefor by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more~~

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~~than-thirty-days~~.

Sec. 7. Section twenty-five A point fifteen (25A.15), Code 1975, is amended to read as follows:

25A.15 ATTORNEY'S FEES AND EXPENSES. The court rendering a judgment for the claimant under this chapter, or the state appeal board, with the advice and approval of the attorney general, making an award under section 25A.3, or the attorney general making an award under section 25A.9, as the case may be, shall, as a part of the judgment or award, determine and allow reasonable attorney's fees and expenses, to 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~~, and shall, upon conviction thereof, be subject to a fine of not more than one thousand dollars or imprisonment for not more than one year, or both~~.

Sec. 8. Section twenty-eight A point eight (28A.8), Code 1975, is amended to read as follows:

28A.8 PENALTY. Any person knowingly violating or attempting to violate any provision of this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than one hundred dollars~~.

Sec. 9. Section thirty point three (30.3), Code 1975, is amended to read as follows:

30.3 PENALTIES. ~~If~~ Where no other penalty is provided, any person who shall violate any of the provisions of this chapter, ~~he~~ shall be guilty of a simple misdemeanor ~~and, on the occasion of the first conviction, shall be fined not less than ten dollars nor more than one hundred dollars and, on the occasion of the second or any subsequent conviction, shall be imprisoned not less than one day nor more than thirty days, according to the discretion of the court, within said limits,~~

~~in-any-case.~~

Sec. 10. Section thirty-five A point nine (35A.9), Code 1975, is amended to read as follows:

35A.9 FALSE STATEMENTS--PENALTY. Whoever knowingly makes a false statement, oral or written, relating to a material fact in supporting a claim under the provisions of this chapter, shall be ~~punished by a fine of not more than one thousand dollars or be imprisoned for not more than one year, or both~~ guilty of a simple misdemeanor, and shall forfeit all benefits he or she might have been entitled to under this chapter.

Sec. 11. Section thirty-five B point nine (35B.9), Code 1975, is amended to read as follows:

35B.9 FALSE STATEMENTS--PENALTY. Whoever knowingly makes a false statement, oral or written, relating to a material fact in supporting a claim under the provisions of this chapter, shall be ~~punished by a fine of not more than one thousand dollars or be imprisoned for not more than one year, or both~~ guilty of a simple misdemeanor, and shall forfeit all benefits he or she might have been entitled to under this chapter.

Sec. 12. Section thirty-eight point one (38.1), Code 1975, is amended to read as follows:

38.1 REGISTRATION OF ALIENS. When a state of war exists between the United States and a foreign country, or, in the judgment of the governor, public safety or necessity requires such action, the governor may, by proclamation, direct every subject or citizen of such foreign countries as the governor may designate in such proclamation, who are in this state, or who may from time to time come into the state, to appear within twenty-four hours after the date specified in such proclamation or after arrival within the state, before such public authorities as the governor may designate in such proclamation, and personally register his or her name, residence, business, length of stay and such other information

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as the governor may require. Such proclamation shall be published in such newspapers as the governor may designate. Every person to whom such proclamation is applicable shall also comply with such rules of personal identification as the governor shall from time to time prescribe. The occupant of every private residence, and the owner, lessee or proprietor, operating or managing every hotel, inn, boarding or rooming house, shall, within twenty-four hours after the date specified in such proclamation, notify such public authorities of the presence therein of every subject or citizen of a foreign country to whom such proclamation is applicable, and shall each day thereafter notify such public authorities of the arrival thereat or departure therefrom of every such subject or citizen. A failure to comply with any such proclamation or to perform any act required by this section shall be a serious misdemeanor~~,-and-punishable-by-a-fine-not-exceeding-one-thousand-dollars,-or-imprisonment-for-one-year,-or-both~~.

Sec. 13. Section forty-three point one hundred twenty (43.120), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever ~~is-guilty-of~~ commits any of the following acts shall be ~~fined-not-less-than-one-hundred-dollars-nor-more-than-five-hundred-dollars,-or-be-imprisoned-in-the-county-jail-not-less-than-thirty-days-nor-more-than-six-months~~ guilty of a serious misdemeanor, to wit:

Sec. 14. Section forty-eight point five (48.5), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Such lists shall not be used for any commercial purpose, advertising, or solicitation, of any kind or nature, other than to request such person's vote at a primary or general election, or any other bona fide political purpose. The commissioner shall keep a list of the name, address, telephone number, and social security number of each person who copies

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or duplicates such lists. Any person that uses such lists in violation of this section shall, upon conviction, be ~~imprisoned in the county jail, not to exceed one year, or be fined not to exceed one thousand dollars, or by both such fine and imprisonment, for each violation~~ guilty of a serious misdemeanor.

Sec. 15. Section forty-eight point sixteen (48.16), Code 1975, is amended to read as follows:

48.16 PENALTIES. Any officer or employee who shall willfully fail to perform or enforce any of the provisions of this chapter, or who shall unlawfully or fraudulently remove any registration card or record from its proper compartment in the registration records, or who shall willfully destroy any record provided by this chapter, or any person who shall willfully or fraudulently register more than once, or register under any but his true name, or votes or attempts to vote by impersonating another who is registered, or who willfully or fraudulently registers in any election precinct where he is not a resident at the time of registering, or who adds a name or names to a page or pages, or who violates any of the provisions of this chapter, shall be guilty of ~~felony and, upon conviction, shall be imprisoned in the state penitentiary for not less than one year~~ an aggravated misdemeanor.

Sec. 16. Section forty-eight point twenty-seven (48.27), subsection four (4), paragraphs a and d, Code 1975, are amended to read as follows:

a. They shall secure registration of eligible voters anywhere in the jurisdiction of the county commissioner of registration. It shall be unlawful for any mobile deputy registrar to refuse to register any eligible voter and any unreasonable refusal shall be a simple misdemeanor.

d. Mobile deputy registrars shall return all completed registration records at least weekly to the county commissioner of registration except that completed registration records shall be turned in at least every two working days

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during the last ten days of registration. All completed and unused material must be turned in no later than six o'clock on the day registration closes for the election. Failure to comply with this provision shall be a simple misdemeanor.

Sec. 17. Section forty-nine point one hundred eight (49.108), Code 1975, is amended to read as follows:

49.108 PENALTY. Any violation of the provisions of section 49.107 shall ~~be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment for not less than ten days nor more than thirty days in the county jail, or by both fine and imprisonment~~ constitute a simple misdemeanor.

Sec. 18. Section forty-nine point one hundred ten (49.110), Code 1975, is amended to read as follows:

49.110 INTIMIDATION OF EMPLOYEES BY EMPLOYER. Any employer who shall refuse to an employee the privilege conferred by section 49.109, or shall subject such employee to a penalty or reduction of wages because of the exercise of such privilege, or shall in any manner attempt to influence or control such employee as to how he shall vote, by offering any reward, or threatening discharge from employment, or otherwise intimidating or attempting to intimidate such employee from exercising his right to vote, shall be ~~punished by a fine of not less than five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 19. Section forty-nine point one hundred twelve (49.112), Code 1975, is amended to read as follows:

49.112 PENALTY. Any person violating section 49.111 shall be ~~fined not less than ten dollars nor more than one hundred dollars, or imprisoned not less than ten nor more than thirty days, or be punished by both said fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 20. Section forty-nine point one hundred nineteen (49.119), Code 1975, is amended to read as follows:

49.119 PENALTY. Any person violating or attempting to

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violate any provisions or requirements of this chapter, or failing or refusing to comply with any order or command of an election officer, made in pursuance of the provisions of this chapter, shall, unless otherwise provided, be ~~punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment of not less than twenty days, nor more than six months, in the county jail~~ guilty of a simple misdemeanor.

Sec. 21. Section forty-nine point one hundred twenty-two (49.122), Code 1975, is amended to read as follows:

49.122 PENALTY. Any person violating any of the provisions of sections 49.120 and 49.121 shall be deemed guilty of a simple misdemeanor ~~and punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months.~~

Sec. 22. Section fifty-one point sixteen (51.16), Code 1975, is amended to read as follows:

51.16 VIOLATIONS. Any judge or clerk violating the provisions of this chapter shall be guilty of a simple misdemeanor~~, and, upon conviction thereof, shall be liable to a fine of not to exceed five hundred dollars, or imprisonment in the county jail not to exceed six months. Any person so convicted shall be disfranchised for five years thereafter.~~

Sec. 23. Section fifty-three point thirty-four (53.34), Code 1975, is amended to read as follows:

53.34 FALSE AFFIDAVIT. Any person who shall willfully swear falsely to any of such affidavits shall be guilty of ~~perjury, and punished accordingly~~ a fraudulent practice.

Sec. 24. Section fifty-three point thirty-five (53.35), Code 1975, is amended to read as follows:

53.35 REFUSAL TO RETURN BALLOT. Any person who, having procured an official ballot or ballots, shall willfully neglect or refuse to cast or return the same in the manner provided, or who shall willfully violate any provision of this

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chapter, shall, unless otherwise provided, be ~~fined not to exceed one hundred dollars, or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor. Any person who applies for a ballot and willfully neglects or refuses to return the same shall be deemed to have committed an offense in the county to which such ballot was returnable.

Sec. 25. Section fifty-three point thirty-six (53.36), Code 1975, is amended to read as follows:

53.36 OFFENSES BY OFFICERS. If any commissioner or any election officer shall refuse or neglect to perform any of the duties prescribed by this chapter, or shall violate any of the provisions thereof, he shall ~~be fined not less than one hundred dollars nor more than one thousand, or imprisoned in the county jail not to exceed ninety days~~ , where no other penalty is provided, be guilty of a simple misdemeanor.

Sec. 26. Section fifty-six point sixteen (56.16), Code 1975, is amended to read as follows:

56.16 PENALTY. Any person who willfully violates any provisions of this chapter shall upon conviction, be ~~subject to a fine of not more than one thousand dollars or imprisonment in the county jail for not more than thirty days~~ guilty of a serious misdemeanor.

Sec. 27. Section sixty-four point twenty-five (64.25), Code 1975, is amended to read as follows:

64.25 FAILURE TO GIVE BOND. ~~Any~~ Action by any officer ~~who acts~~ in an official capacity without giving bond when such bond is required shall ~~be fined in an amount not exceeding the amount of the bond required of him~~ constitute grounds for removal from office.

Sec. 28. Section sixty-seven point six (67.6), Code 1975, is amended to read as follows:

67.6 EFFECT OF ORDER--PENALTY. It shall be unlawful for such officer, after the making of such order of suspension, to exercise or attempt to exercise any of the functions of his office until such suspension shall be revoked; and any

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attempt by the suspended officer to exercise such office shall ~~be punished by imprisonment in the county jail not more than one year, or by a fine not exceeding one thousand dollars, or by both fine and imprisonment~~ constitute a serious misdemeanor.

Sec. 29. Section sixty-eight A point six (68A.6), Code 1975, is amended to read as follows:

68A.6 PENALTY. It shall be unlawful for any person to deny or refuse any citizen of Iowa any right under this chapter, or to cause any such right to be denied or refused. Any person knowingly violating or attempting to violate any provision of this chapter where no other penalty is provided shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than one hundred dollars~~.

Sec. 30. Section sixty-nine point two (69.2), subsection six (6), Code 1975, is amended to read as follows:

6. The conviction of incumbent of an ~~infamous crime~~ aggravated misdemeanor, or of any public offense involving the violation of his oath of office.

Sec. 31. Section seventy-three point five (73.5), Code 1975, is amended to read as follows:

73.5 VIOLATIONS. Any officer or person who is connected with, or is a member or agent or representative of any commission, board, committee, officer or other governing body of this state, or of any county, township, school district, city, or contractor, who fails to give preference to Iowa labor as required in sections 73.3 and 73.4, shall be guilty of a simple misdemeanor~~, and upon conviction shall be punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail for not to exceed thirty days~~. Each separate case of failure to give preference to Iowa labor shall constitute a separate offense.

Sec. 32. Section seventy-five point seven (75.7), Code 1975, is amended to read as follows:

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75.7 PENALTY. Any public officer who fails to perform any duty required by this chapter or who does any act prohibited by this chapter, where no other penalty is provided, shall be guilty of a simple misdemeanor.

Sec. 33. Section seventy-seven point eleven (77.11), Code 1975, is amended to read as follows:

77.11 IMPROPERLY ACTING AS NOTARY. If any notary public exercises the duties of his office after the expiration of his commission, or when otherwise disqualified, or appends his official signature to documents when the parties have not appeared before him, he shall be ~~fined not less than fifty dollars~~ guilty of a simple misdemeanor, and shall be removed from office by the secretary of state.

Sec. 34. Section seventy-seven point fifteen (77.15), Code 1975, is amended to read as follows:

77.15 NEGLECT TO DEPOSIT RECORDS. If any notary, on his resignation or removal, neglects for three months so to deposit them, he shall be guilty of a simple misdemeanor and be liable in an action to any person injured by such neglect.

Sec. 35. Section seventy-seven point sixteen (77.16), Code 1975, is amended to read as follows:

77.16 NEGLECT OF EXECUTOR TO DEPOSIT RECORDS. If an executor or administrator of a deceased notary willfully neglects, for three months after his acceptance of that appointment, to deposit in the secretary of state's office the records and papers of a deceased notary which came into his hands, he shall be held guilty of a simple misdemeanor.

Sec. 36. Section eighty point six (80.6), Code 1975, is amended to read as follows:

80.6 IMPERSONATING OFFICER--UNIFORM. Any person who impersonates a member of the Iowa safety patrol or other officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer, with intent to deceive anyone, shall be guilty of a simple misdemeanor ~~and be punished as provided in section 321.482~~.

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Sec. 37. Section eighty A point twelve (80A.12), Code 1975, is amended to read as follows:

80A.12 PENALTIES. Any person, firm or corporation who violates any of the provisions of this chapter ~~or~~ where no other penalty is provided shall be guilty of a simple misdemeanor. Anyone who makes any false statement or representation in any application or statement filed with the commissioner of public safety, as required by this chapter, or any person who falsely states or represents that he has been or is a private detective or advertises himself as such~~,-or-any~~ shall be guilty of a fraudulent practice. Any person, firm, or corporation who engages in the private detective business or profession as defined in this chapter, without being possessed of a current, valid license therefor, as provided by this chapter, shall be guilty of a serious misdemeanor ~~and upon-conviction-thereof-shall-be-punished-by-a-fine-of-not less-than-one-hundred-dollars,-nor-more-than-five-hundred dollars,-or-by-imprisonment-in-the-county-jail-not-to-exceed six-months,-or-by-both-such-fine-and-imprisonment.~~

Sec. 38. Section eighty-one point thirteen (81.13), Code 1975, is amended to read as follows:

81.13 PENALTIES. Any person violating any provision of this chapter shall be guilty of a simple misdemeanor, except as herein otherwise provided~~,-and-shall-upon-conviction-thereof be-punished-by-a-fine-of-not-more-than-one-hundred-dollars or-by-imprisonment-in-the-county-jail-not-exceeding-thirty days~~.

Sec. 39. Section eighty-one A point nine (81A.9), Code 1975, is amended to read as follows:

81A.9 PENALTY. Any merchant, whether an individual person, a firm, corporation, partnership or association violating any of the provisions of this chapter shall~~,-upon conviction,-be-fined-in-a-sum-not-to-exceed-one-hundred-dollars,-or-be-imprisoned-not-to-exceed-thirty-days-in-jail~~ be guilty of a simple misdemeanor. Each sale made in viola-

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tion of the provisions hereof shall be and constitute a separate offense.

Sec. 40. Section eighty-three A point twenty-nine (83A.29), Code 1975, is amended to read as follows:

83A.29 PENALTY FOR FAILURE TO REGISTER. Any operator who fails to make timely application for registration of each site where mining is being conducted is guilty of a simple misdemeanor ~~and on conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment not to exceed thirty days, or both such fine and imprisonment.~~ Each day mining activities are conducted at a site for which no application for registration has been made as required under section 83A.13 shall constitute a separate violation.

Sec. 41. Section eighty-four point sixteen (84.16), subsections one (1) and two (2), Code 1975, are amended to read as follows:

84.16 PENALTIES.

1. Any person who violates any provision of this chapter, or any rule or order of the council where no other penalty is provided shall be ~~subject to a penalty of not more than one thousand dollars for each act of violation and for each day that such violation continues, unless the penalty for such violation is otherwise specifically provided for and made exclusive in this chapter~~ guilty of a simple misdemeanor.

2. If any person, for the purpose of evading this chapter, or any rule or order of the council, shall make or cause to be made any false entry or statement in a report required by this chapter or by any such rule or order, or shall make or cause to be made any false entry in any record, account, or memorandum required by this chapter, or by any such rule or order, or shall omit, or cause to be omitted, from any such record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any such rule or order, or shall remove from this state or destroy, mutilate,

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alter or falsify any such record, account, or memorandum, such person shall be guilty of a ~~misdemeanor and, upon conviction, shall be subject to a fine of not more than five thousand dollars or imprisonment in a county jail for a term not exceeding six months, or to both such fine and imprisonment~~ fraudulent practice.

Sec. 42. Section eighty-four point sixteen (84.16), Code 1975, is amended by striking subsection four (4).

Sec. 43. Section eighty-five point forty-one (85.41), Code 1975, is amended to read as follows:

85.41 REFUSAL TO FURNISH STATEMENT. On failure of the employer to furnish such statement of earnings for thirty days after receiving written request therefor from an injured employee, his agent, attorney, dependent, or legal representative, such employer shall ~~pay a penalty of twenty-five dollars for each offense to be collected by the commissioner in any court having jurisdiction and paid into the state treasury~~ be guilty of a simple misdemeanor.

Sec. 44. Section eighty-five point fifty-four (85.54), Code 1975, is amended to read as follows:

85.54 CONTRACTS TO AVOID COMPENSATION. Any contract of employment, relief benefit, or insurance, or other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this chapter, shall be null and void; and any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a simple misdemeanor ~~and punishable by a fine not less than ten dollars nor more than fifty dollars for each offense~~.

Sec. 45. Section eighty-six point four (36.4), Code 1975, is amended to read as follows:

86.4 POLITICAL ACTIVITY AND CONTRIBUTIONS. It shall be unlawful for the commissioner, or any appointee of the commissioner while in office, to espouse the election or appointment of any candidate to any political office, contri-

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buce to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or appointment to any poli ical office, and any person violating the provisions of this section shall be guilty of a simple misdemeanor ~~and shall be fined one hundred dollars, and it shall be sufficient cause for removal from office~~.

Sec. 46. Section eighty-six point five (86.5), Code 1975, is amended to read as follows:

86.5 POLITICAL PROMISES. Any person who is a candidate for appointment as commissioner who makes any promise to another, express or implied, in consideration of any assistance or influence given or recommendation made that the candidate will, if appointed as a commissioner, appoint such person or one whom he may recommend to any office within the power of the commissioner to appoint, shall be ~~fined one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 47. Section eighty-six point ten (86.10), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

~~A refusal~~ Refusal on the part of the employer to submit his books, records, or payrolls for the inspection of the commissioner or his authorized representatives presenting written authority from the commissioner, shall ~~subject the employer to a penalty of one hundred dollars for each such offense, to be collected by civil action in the name of the state, and paid into the state treasury~~ constitute a simple misdemeanor.

Sec. 48. Section eighty-six point twelve (86.12), Code 1975, is amended to read as follows:

86.12 FAILURE TO REPORT. Any employer who willfully fails to make the reports required by this chapter shall be ~~liable to a penalty of fifty dollars for each offense to be recovered by the commissioner~~ guilty of a simple misdemeanor. The commissioner shall be represented by the county attorney of the county in which such proceedings is brought.

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Sec. 49. Section eighty-seven point two (87.2), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any employer coming under the provisions of this and chapters 85 and 86 who fails to comply with this section or to post and keep the above notice in the manner and form herein required, shall be guilty of a simple misdemeanor.

Sec. 50. Section eighty-seven point fourteen (87.14), Code 1975, is amended to read as follows:

87.14 MINES--INSURANCE REQUIRED. It shall be unlawful for any person, firm, association, corporation or partnership to engage in the business of operating a mine under any system of removing coal for sale, or any work in connection therewith, or incident thereto, without first obtaining insurance covering compensation payments or obtaining relief therefrom as provided in chapters 85, 86, and 87, as herein amended. Any violation of this section shall be deemed a simple misdemeanor ~~and upon conviction of such offense the offender shall be punished by a fine of not less than ten dollars nor more than one hundred dollars~~. Each day such offense is committed shall be regarded as a separate, wrongful act and may be prosecuted in one proceeding, but in separate counts, at the election of the prosecuting attorney.

Sec. 51. Section eighty-eight point fourteen (88.14), subsection eight (8), Code 1975, is amended to read as follows:

8. DISCLOSURE OF CONFIDENTIAL INFORMATION. Whoever violates the provisions of section 88.12 shall be ~~fined not more than one thousand dollars, or imprisoned not more than one year, or both such fine and imprisonment~~ guilty of a serious misdemeanor; and shall be removed from office or employment.

Sec. 52. Section eighty-eight A point ten (88A.10), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who interferes with, impedes, or obstructs in any manner the commissioner or any authorized represen-

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tative of the bureau in the performance of his duties under this chapter is guilty of a simple misdemeanor. Any person who bribes or attempts to bribe the commissioner or his designee shall be subject to ~~section 739.1~~ chapter one (1), section two thousand two hundred one (2201) of this Act.

Sec. 53. Section eighty-nine point nine (89.9), Code 1975, is amended to read as follows:

89.9 PENALTY. Any person or persons, corporations and directors, managers and superintendents, and officers thereof, violating any of the provisions of this chapter, shall be guilty of a simple misdemeanor~~, and upon conviction thereof shall be punished by a fine in a sum not more than one hundred dollars~~.

Sec. 54. Section ninety-one point sixteen (91.16), Code 1975, is amended to read as follows:

91.16 VIOLATIONS--PENALTIES. Persons violating any of the provisions of this chapter shall be punished as in this section provided, respectively:

1. Any owner, superintendent, manager, or person in charge of any factory, mill, workshop, store, mine, hotel, restaurant, cafe, railway, business house, public or private work, who shall refuse to allow the commissioner of labor or any inspector or employee of the bureau of labor to enter the same, or who shall hinder or deter him in collecting information which it is his duty to collect shall be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

~~2. Any person duly subpoenaed to attend a hearing before the commissioner or deputy or a court in any proceeding provided by this chapter who shall willfully neglect or refuse to attend or testify at the time and place named in the subpoena shall be fined not exceeding fifty dollars or imprisoned in the county jail not exceeding thirty days.~~

~~3~~ 2. Any officer or employee of the bureau of labor, or any person making unlawful use of names or information obtained

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by virtue of his office, shall be ~~fined not exceeding five hundred dollars or imprisoned in the county jail not exceeding one year~~ guilty of a serious misdemeanor.

~~4~~ 3. Any owner, operator, or manager of a factory, mill, workshop, mine, store, railway, business house, public or private work, who shall neglect or refuse for thirty days after receipt of notice from the commissioner to furnish any reports or returns he may require to enable him to discharge his duties shall be ~~fined not to exceed one hundred dollars or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 55. Section ninety-two point twenty (92.20), Code 1975, is amended to read as follows:

92.20 PENALTY. The parent, guardian, or person in charge of any migratory worker or of any child who shall engage in any street occupation in violation of any of the provisions of this chapter shall be ~~punished by a fine of not less than twenty dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Any person who furnishes or sells to any minor child any article of any description when he knows or should have known that said minor intends to sell in violation of the provisions of this chapter, shall be ~~punished by a fine of not less than twenty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Any other violation of this chapter for which a penalty is not specifically provided, shall be ~~punishable by a fine of not less than twenty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor. Every day during which any violation of this chapter continues shall constitute a separate and distinct offense, and the employment of any person in violation of this chapter shall, with respect to each person so employed, constitute a separate and distinct offense.

Sec. 56. Section ninety-four point seven (94.7), Code

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1975, is amended to read as follows:

94.7 UNLAWFUL PRACTICES--CIVIL LIABILITY. ~~No~~ Any person, firm, or corporation ~~shall send~~ who sends an application for employment to an employer who has not applied to such person, firm, or corporation for help or labor shall be guilty of a simple misdemeanor. ~~Nor shall any~~ Any person, firm, or corporation engaged in the business of operating an employment agency or bureau, who fraudulently ~~promise or deceive~~ promises or deceives either through a false notice or advertisement or other means, any applicant for help or employment with regard to the service to be rendered by such person, firm, corporation, agency, or bureau shall be guilty of a simple misdemeanor. ~~Any person who violates any of the provisions of this section shall be liable in a civil suit for damages to any person who is damaged or injured thereby and shall also be guilty of a misdemeanor, and upon conviction, shall be punished as provided in section 94.12.~~

Sec. 57. Section ninety-four point twelve (94.12), Code 1975, is amended to read as follows:

94.12 VIOLATIONS. Any person, firm, or corporation violating any of the provisions of this chapter, or who shall refuse access to records, books, or other papers relative to the conduct of such agency or bureau, to any person having authority to examine same, shall be ~~punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor unless otherwise provided.

Sec. 58. Section ninety-five point six (95.6), Code 1975, is amended to read as follows:

95.6 VIOLATIONS. Any person in any manner undertaking to do any of the things described in section 95.1, without first securing a license as herein provided, shall be guilty of a serious misdemeanor.

Sec. 59. Section ninety-six point eleven (96.11), subsection nine (9), Code 1975, is amended to read as follows:

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9. SUBPOENAS. In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commission, or appeal tribunal, or any member or duly authorized representative thereof, shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, or an appeal tribunal, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; any failure to obey such order of the court may be punished by said court as a contempt thereof. ~~Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power to do so, in obedience to a subpoena, shall be punished by a fine of not more than two hundred dollars or by imprisonment, for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.~~

Sec. 60. Section ninety-six point fifteen (96.15), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. WAIVER OF RIGHTS VOID. Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this chapter shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual

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in his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned for not more than six months, or both~~ guilty of a serious misdemeanor.

2. LIMITATION OF FEES. No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the commission, or an appeal tribunal or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the commission. Any person who violates any provisions of this subsection shall, for each such offense, be ~~fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not more than six months, or both~~ guilty of a serious misdemeanor.

Sec. 61. Section ninety-six point sixteen (96.16), subsections one (1), two (2), and three (3), Code 1975, are amended to read as follows:

1. PENALTIES. Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, shall be ~~punished by a fine of not less than twenty dollars nor more than fifty dollars or by imprisonment for not longer than thirty days~~ guilty of a fraudulent practice. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

2. FALSE STATEMENT. Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to pre-

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vent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required from an employing unit under this chapter, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be ~~punished by a fine of not less than twenty dollars nor more than two hundred dollars, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment~~ guilty of a fraudulent practice; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal, shall constitute a separate offense.

3. UNLAWFUL ACTS. Any person who shall willfully violate any provisions of this chapter or any rule thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be ~~punished by a fine of not less than twenty dollars nor more than two hundred dollars or by imprisonment for not longer than sixty days, or by both such fine and imprisonment~~ guilty of a simple misdemeanor, and each day such violation continues shall be deemed to be a separate offense.

Sec. 62. Section ninety-seven A point thirteen (97A.13), Code 1975, is amended to read as follows:

97A.13 PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system as a result of such act, shall be guilty of a ~~misdemeanor and shall be punishable therefor under the laws of this state~~ fraudulent practice. Should any change or error in records result in any member or beneficiary receiving from the system more or less than

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he would have been entitled to receive had the records been correct, the board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled, shall be paid.

Sec. 63. Section ninety-seven B point thirty-eight (97B.38), Code 1975, is amended to read as follows:

97B.38 FEES FOR SERVICES. The commission may, by rule, prescribe the maximum fees which may be charged for services performed in connection with any claim before the commission under this chapter, and any agreement in violation of such rules shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this chapter by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the commission, shall be deemed guilty of a ~~misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or both~~ fraudulent practice.

Sec. 64. Section ninety-seven B point forty (97B.40), Code 1975, is amended to read as follows:

97B.40 FRAUD. Whoever, for the purpose of causing an increase in any payment authorized to be made under this chapter, or for the purpose of causing any payment to be made where no payment is authorized under this chapter, shall willfully make or cause to be made any false statement or representation as to the amount of any wages paid or received for the period during which earned or unpaid, knowing it to be false or whoever makes or causes to be made any false statement of a material fact knowing it to be false in any appli-

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cation for any payment under this chapter, or whoever willfully makes or causes to be made any false statement, representation, affidavit, or document in connection with such an application knowing them to be false, shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both~~ fraudulent practice.

Sec. 65. Section ninety-eight point three (98.3), Code 1975, is amended to read as follows:

98.3 VIOLATION. Any person who shall violate any of the provisions of section 98.2 shall for the first offense be ~~punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days~~ guilty of a simple misdemeanor. For a second or any subsequent violation such person shall be ~~punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than one month nor more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 66. Section ninety-eight point thirty-seven (98.37), Code 1975, is amended to read as follows:

98.37 CERTAIN OFFENSES AND PENALTIES PROVIDED. Whoever shall violate any provision of this chapter ~~for which a fine or imprisonment is not elsewhere specifically provided,~~ shall be ~~punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment for not to exceed thirty days~~ guilty of a simple misdemeanor unless otherwise provided.

Sec. 67. Section ninety-eight point thirty-eight (98.38), Code 1975, is amended to read as follows:

98.38 COUNTERFEITING AND PREVIOUSLY USED STAMPS. Any person who shall print, engrave, make, issue, sell, or circulate, or shall possess or have in his possession with intent to use, sell, circulate, or pass, any counterfeit stamp or

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previously used stamp, or who shall use, or consent to the use of, any counterfeit stamp or previously used stamp in connection with the sale, or offering for sale, of any cigarettes, or who shall place, or cause to be placed, on any individual package of cigarettes, any counterfeit stamp or previously used stamp, shall be guilty of ~~a felony and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars or by imprisonment not more than one year or both such fine and imprisonment~~ an aggravated misdemeanor.

Sec. 68. Section ninety-eight point forty-one (98.41), Code 1975, is amended to read as follows:

98.41 PENALTY. Any person violating any of the provisions of section 98.40 shall be ~~punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 69. Section ninety-eight point forty-five (98.45), unnumbered paragraph four (4), Code 1975, is amended to read as follows:

Any person who fails or refuses to transmit to the director the required reports or whoever refuses to permit the examination of the records by the director shall be guilty of a simple misdemeanor.

Sec. 70. Section ninety-eight point fifty (98.50), Code 1975, is amended to read as follows:

98.50 VIOLATIONS, PENALTIES.

1. Any person who in any manner knowingly attempts to evade the tax imposed by this division or who knowingly aids or abets in the evasion or attempted evasion of the tax or who knowingly violates the provisions of section 98.44, subsection 1, of this division, shall be ~~imprisoned in the county jail for a term of not more than one year or fined not to exceed one thousand dollars, or both~~ guilty of a serious misdemeanor.

2. Any person who otherwise violates any provisions of

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this division shall be guilty of a simple misdemeanor.

Sec. 71. Section ninety-nine point one (99.1), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever shall erect, establish, continue, maintain, use, own, or lease any building, erection, or place used for the purpose of ~~lewdness, assignation,~~ prostitution or gambling~~, or pool selling as defined by section 726.6~~, except as authorized under the laws of this state, is guilty of a nuisance, and the building, erection, or place, or the ground itself, in or upon which such ~~lewdness, assignation,~~ prostitution~~,~~ or gambling~~, or pool selling as defined by section 726.6~~ is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such nuisance, are also declared a nuisance and shall be enjoined and abated as hereinafter provided.

Sec. 72. Section ninety-nine A point one (99A.1), subsection one (1), Code 1975, is amended by striking the subsection and inserting in lieu thereof the following:

1. "Gambling devices" means any devices the possession of which is proscribed by chapter one (1), section two thousand five hundred eleven (2511) of this Act.

Sec. 73. Section ninety-nine B point nine (99B.9), Code 1975, is amended to read as follows:

99B.9 PENALTIES. Any person who conducts, manages, operates, plays or participates in a game of chance or raffle in a manner which causes the winner to be determined other than by chance shall be guilty of a serious misdemeanor. Any person who conducts, manages or operates a game of skill, game of chance or raffle in violation of the provisions of this chapter and section 726.12 shall be guilty of a serious misdemeanor.

~~A misdemeanor under this section is punishable by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars or by both impris-~~

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~~onment-and-fine.~~

Sec. 74. Section one hundred point four (100.4), Code 1975, is amended to read as follows:

100.4 REFUSAL OF OFFICER TO INVESTIGATE. Any chief of a fire department, mayor, or township clerk who fails or refuses to make the investigation and report required of him, shall be ~~fined-in-a-sum-not-less-than-five-dollars-nor-more than-one-hundred-dollars~~ guilty of a simple misdemeanor.

Sec. 75. Section one hundred point eight (100.8), Code Code 1975, is amended to read as follows:

100.8 REFUSAL TO TESTIFY OR PRODUCE BOOKS. Any witness who refuses to be sworn, ~~or-refuses-to-testify,~~ except as otherwise provided by law, or who disobeys any lawful order of said fire marshal, or his designated subordinates, or who fails to produce any books, papers, or documents touching any matter under examination, shall be guilty of a simple misdemeanor~~,-and-shall-be-fined-not-exceeding-one hundred-dollars-or-imprisoned-in-the-county-jail-not-exceeding thirty-days~~.

Sec. 76. Section one hundred point thirty-five (100.35), Code 1975, is amended to read as follows:

100.35 RULES OF MARSHAL. The fire marshal shall adopt, amend, promulgate and enforce rules and standards relating to fire protection, fire safety and the elimination of fire hazards in churches, schools, hotels, theaters, amphitheaters, hospitals, health care facilities as defined in section 135C.1, boarding homes or housing, rest homes, dormitories, college buildings, lodge halls, club rooms, public meeting places, places of amusement, and all other buildings or structures in which persons congregate from time to time, whether publicly or privately owned. Any person, firm or corporation violating any of such rules and regulations of the fire marshal shall be deemed guilty of a simple misdemeanor ~~and-upon-conviction shall-be-punished-by-a-fine-of-not-less-than-twenty-five dollars-nor-more-than-one-hundred-dollars~~. Each day of the

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continuing violation of such rules after conviction shall be considered a separate offense. Appeals may be taken from such convictions as in other criminal cases.

Sec. 77. Section one hundred one point seven (101.7), Code 1975, is amended to read as follows:

101.7 PENALTY. Any person, firm or corporation violating any of the rules promulgated under this chapter shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not less than twenty five dollars nor more than one hundred dollars~~. Each day of the continuing violation of such rules after conviction shall be considered a separate offense. Appeals may be taken from such convictions as in other criminal cases.

Sec. 78. Section one hundred one A point one (101A.1), subsection one (1), Code 1975, is amended to read as follows:

1. "Explosive" or "explosives" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States department of transportation. The term "explosives" includes all material which is classified as class A, class B, and class C explosives by the United States department of transportation, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices and cartridges for industrial guns, but shall not include "fireworks" as defined ~~and regulated pursuant to sections 732.17 through 732.19~~ in chapter one (1), section two thousand seven hundred two (2702) of this Act nor ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols. Commercial explosives are those explosives which

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are intended to be used in commercial or industrial operations.

Sec. 79. Section one hundred one A point fourteen (101A.14), Code 1975, is amended to read as follows:

101A.14 CRIMINAL PENALTIES.

1. Any person who violates the provisions of section 101A.2, subsection 3, or section 101A.3, subsection 4, commits a public offense and, upon conviction, shall be ~~punished by imprisonment in the penitentiary for a term not to exceed fifteen years, or fined not to exceed five thousand dollars, or by both such imprisonment and fine~~ guilty of a class C felony.

2. Any person who violates the provisions of sections 101A.6, 101A.8 or 101A.9 or any of the rules adopted by the commissioner of public safety pursuant to the provisions of this chapter, commits a ~~public offense and, upon conviction, shall be punished by imprisonment in the county jail not to exceed thirty days, or fined not to exceed one hundred dollars~~ simple misdemeanor.

Sec. 80. Section one hundred two point four (102.4), Code 1975, is amended to read as follows:

102.4 FALSE CLAIM TO EXEMPTION. Any person who shall by misrepresentation, or by the use of a false certificate or the certificate of any other person, endeavor to avail himself of the benefits of this chapter, ~~upon conviction thereof,~~ shall be ~~imprisoned in the county jail for a period of not more than six nor less than one month, and pay a fine of not less than ten nor more than one hundred dollars~~ guilty of a serious misdemeanor.

Sec. 81. Section one hundred three point seventeen (103.17), Code 1975, is amended to read as follows:

103.17 VIOLATIONS. Any person who shall violate any of the provisions of law relating to fire escapes, or means of escape from fire, or any owner, agent, or trustee having the full care and control of any building and who has been served with notice as provided herein and who shall, within sixty

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days of the service of the notice, or within the time as extended by the state fire marshal, fail and neglect to comply with the requirements of law, or of the state fire marshal, or who shall fail, refuse, or neglect to perform any order or requiement fixed by law, or by the state fire marshal, shall be ~~punished by a fine of not less than twenty-five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor. Each additional week of neglect to comply with such notice, order, or requirement shall constitute a separate offense.

Sec. 82. Section one hundred three A point twenty-one (103A.21), subsections one (1) and two (2), Code 1975, are amended to read as follows:

103A.21 PENALTY.

1. Any person served with an order pursuant to the provisions of section 103A.19, subsection 3, who fails to comply with the order within thirty days after service or within the time fixed by the local building department for compliance, whichever is longer, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building or structure who shall knowingly violate any of the applicable provisions of the state building code or any lawful order of a local building department made thereunder, shall be ~~punishable by a fine of not more than one hundred dollars, or thirty days in jail, or by both fine and imprisonment~~ guilty of a simple misdemeanor.

2. Violation of this chapter shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person.

Violations of this section shall be simple misdemeanors, and ~~municipal, police, or mayors'~~ magistrates' and district associate judges' courts shall have exclusive jurisdiction to originally hear and determine charges of violations.

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Sec. 83. Section one hundred four point seventeen (104.17), Code 1975, is amended to read as follows:

104.17 PENALTIES.

1. Any owner who violates any of the provisions of this chapter shall be ~~punished for each offense by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days in the county jail~~ guilty of a simple misdemeanor, unless otherwise specifically provided in this chapter.

2. Any person who bribes or attempts to bribe an inspector shall be subject to criminal proceedings under ~~section 739.4~~ chapter one (1), section two thousand two hundred one (2201) of this Act.

Sec. 84. Section one hundred six point seven (106.7), subsection five (5), Code 1975, is amended to read as follows:

5. Failure of the operator of any vessel involved in a collision, reportable accident, or other casualty, to offer assistance and aid to other persons affected by such collision, accident, or casualty, as set forth in this chapter, shall ~~be punishable by a fine of not more than one thousand dollars, or imprisonment in the county jail for not more than one year, or both~~ constitute a serious misdemeanor.

Sec. 85. Section one hundred six point thirteen (106.13), Code 1975, is amended to read as follows:

106.13 PENALTY. Any person violating any of the provisions of this chapter, for which another penalty is not otherwise specifically provided, shall, ~~upon conviction or a plea of guilty, be fined not to exceed one hundred dollars or be imprisoned in the county jail not to exceed thirty days~~ be guilty of a simple misdemeanor.

Chapter 232 shall have no application in the prosecution of offenses committed in violation of this chapter or rules and regulations which are adopted under the authority of this chapter which ~~are punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty~~

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~~days~~ constitute simple misdemeanors.

Sec. 86. Section one hundred six point twenty-five (106.25), Code 1975, is amended to read as follows:

106.25 PENALTY. If any owner, agent or master of any vessel, plying the waters of this state, shall hire or offer for hire, such vessel for the carrying of a person or persons thereon, without first obtaining annually, a permit as in this chapter required, and before operating such vessel in such service; or if the owner, agent or master, having obtained such permit, receives for carriage or permits carriage on such vessel a greater number of persons than authorized therein, or if any person acts as pilot or engineer on any vessel, for which inspection and registration are required, without first obtaining a permit therefor; or if such pilot or engineer continues to follow such avocation after the same has been revoked or expired, he shall be ~~fined in a sum not to exceed one thousand dollars or imprisoned in the county jail not to exceed one year or punished by both such fine and imprisonment~~ guilty of a serious misdemeanor. The provisions of this section shall not apply to vessels registered or numbered by authority of the United States.

Sec. 87. Section one hundred nine point nine (109.9), Code 1975, is amended to read as follows:

109.9 SPAWNING GROUNDS. To effect sound wildlife management and maintain biological balance as provided in section 109.39, the commission may set aside certain portions of any state waters for spawning grounds where the same are suitable for this purpose for such length of time as it may deem advisable by the posting of notices in conspicuous places around such area, and it shall be unlawful for any person to fish or to in any manner interfere with the spawning of fish in this area. Any person violating any of the provisions of this section shall be guilty of a simple misdemeanor ~~and punished as provided in section 109.32~~.

Sec. 88. Section one hundred nine point thirty-two

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(109.32), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever shall take, catch, kill, injure, destroy, have in possession, buy, sell, ship, or transport any frogs, fish, mussels, birds, their nests, eggs, or plumage, fowls, game, or animals in violation of the provisions of this chapter or of administrative rules of the commission or whoever shall use any device, equipment, seine, trap, net, tackle, firearm, drug, poison, explosive, or other substance or means, the use of which is prohibited by this chapter, or use the same at a time, place or in a manner or for a purpose prohibited, or do any other act in violation of the provisions of this chapter or of administrative rules of the commission for which no other punishment is provided, shall be ~~fined not less than ten dollars nor more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 89. Section one hundred nine point thirty-three (109.33), Code 1975, is amended to read as follows:

109.33 VIOLATIONS RELATING TO DAMS. Whoever shall erect any dam or other obstruction prohibited by this chapter or at a place or in a manner prohibited shall be guilty of a simple misdemeanor, or shall injure or destroy any dam lawfully erected, shall be ~~fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not more than one hundred days~~ guilty of an aggravated misdemeanor.

Sec. 90. Section one hundred nine point thirty-four (109.34), Code 1975, is amended to read as follows:

109.34 VIOLATIONS BY COMMON CARRIER. Any common carrier which shall violate any of the provisions of this chapter relating to receiving, having in possession, shipping or delivering any fish, fowls, birds, birds' nests, eggs, or plumage, game or animals, in violation of the provisions of this chapter or contrary to the regulations and restrictions therein

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provided, and any agent, employee, or servant of such corporation violating such provisions, shall be ~~fined not less than one hundred dollars nor more than three hundred dollars, and any such agent, employee, or servant may be imprisoned not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 91. Section one hundred nine point sixty-one (109.61), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Violation of the provisions of this section shall constitute a simple misdemeanor ~~and punishment shall be as provided for in section 109.32~~.

Sec. 92. Section one hundred nine point eighty-seven (109.87), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Taking or attempting to take beaver on private lands or waters without permission of the owner or tenant shall constitute a simple misdemeanor ~~punishable as provided in section 109.32~~.

Sec. 93. Section one hundred nine point ninety-three (109.93), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating this section shall be ~~punished by a fine of not more than three hundred dollars or imprisonment in the county jail for a period not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 94. Section one hundred nine point one hundred twenty (109.120), Code 1975, is amended to read as follows:

109.120 HUNTING FROM AIRCRAFT OR SNOWMOBILES PROHIBITED. It shall be unlawful for any person to intentionally kill or wound, attempt to kill or wound, or pursue any animal, fowl or fish from or with an aircraft in flight or from or with any self-propelled vehicles designed for travel on snow or ice which utilize sled type runners, or skis, or an endless belt tread or any combination thereof and which are commonly known as snowmobiles. Any person who violates the provi-

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sions of this section shall be guilty of a simple misdemeaor ~~and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars, or by a term not to exceed thirty days in the county jail~~.

Sec. 95. Section one hundred ten point thirteen (110.13), Code 1975, is amended to read as follows:

110.13 UNLAWFUL USE--EFFECT. The use of a license by a person other than that to whom issued shall nullify said license and such use shall constitute a simple misdemeanor.

Sec. 96. Section one hundred ten point twenty-one (110.21), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

110.21 HEARING. At the hearing the magistrate must proceed to take testimony in relation to the property seized and any person claiming an interest in the property, or in any part thereof, may appear and show specific and legal cause why the same shall not be forfeited.

Sec. 97. Section one hundred ten point twenty-six (110.26), Code 1975, is amended to read as follows:

110.26 PENALTIES. Whoever shall violate any of the provisions of this chapter shall be ~~fined not less than ten dollars nor more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 98. Section one hundred ten A point nine (110A.9), Code 1975, is amended to read as follows:

110A.9 VIOLATIONS--PENALTY. Any licensee or any other person, who willfully and intentionally transfers or permits the transfer of the tags issued to the operator of one licensed game breeding and shooting preserve area to the operator of another licensed game breeding and shooting preserve area, or to any other person, or who affixes such tags to game birds not taken from a licensed game breeding and shooting preserve area or to game birds taken from any area other than the area for which such tags were issued, is guilty of

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a simple misdemeanor.

Sec. 99. Section one hundred eleven point four (111.4), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person, firm, association, or corporation violating any of the provisions of this section or any rule or regulation adopted by the commission under the authority of this section shall be guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-punished-by-a-fine-of-not-to-exceed-one-hundred-dollars-or-by-imprisonment-in-the-county-jail-not-to-exceed-thirty-days~~.

Sec. 100. Section one hundred eleven point fifty-seven (111.57), Code 1975, is amended to read as follows:

111.57 PENALTIES. Any person violating any of the provisions of the foregoing sections number 111.35 to 111.56, inclusive, shall~~,-upon-conviction,-be-fined-not-to-exceed-one-hundred-dollars-or-be-imprisoned-in-the-county-jail-not-to-exceed-thirty-days~~ be guilty of a simple misdemeanor.

Sec. 101. Section one hundred eleven A point five (111A.5), Code 1975, is amended to read as follows:

111A.5 RULES AND REGULATIONS--OFFICERS. The county conservation board may make, alter, amend or repeal rules and regulations for the protection, regulation and control of all museums, parks, preserves, parkways, playgrounds, recreation centers, and other property under its control. No rules and regulations adopted shall be contrary to, or inconsistent with, the laws of the state of Iowa. Such rules and regulations shall not take effect until ten days after their adoption by said board and after their publication once a week for two weeks in at least one paper circulating in the county and after a copy thereof has been posted near each gate or principal entrance to the public ground to which they apply. After such publication and posting, any person violating any provision of such rules and regulations which are then in effect shall~~,-upon-conviction,-be-fined-not-more-than-one~~

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~~hundred-dollars-or-be-imprisoned-in-the-county-jail-not-more than-thirty-days~~ be guilty of a simple misdemeanor. The board may designate the executive officer and such employees as he may designate as police officers who shall have all the powers conferred by law on police officers, peace officers, or sheriffs in the enforcement of the laws of the state of Iowa and the apprehension of violators thereof.

Sec. 102. Section one hundred fourteen point twenty-five (114.25), Code 1975, is amended to read as follows:

114.25 VIOLATIONS. Any person who ~~violates-such-permanent-injunction-or~~ presents or attempts to file as his own the certificate of registration of another, or who shall give false or forged evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration, or who shall falsely impersonate another practitioner of like or different name, or who shall use or attempt to use a revoked certificate of registration, shall be deemed guilty of a ~~misdemeanor-and-shall-be-punished-by-a-fine-of-not-less than-one-hundred-dollars-nor-more-than-five-hundred-dollars, or-by-imprisonment-for-three-months,-or-by-both-such-fine and-imprisonment~~ fraudulent practice.

Sec. 103. Section one hundred fourteen point thirty-two (114.32), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine-not exceeding-one-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 104. Section one hundred fifteen point nine (115.9), Code 1975, is amended to read as follows:

115.9 VIOLATIONS PUNISHED. Any ~~violation-of~~ person who violates the provisions of this chapter shall be ~~punished by-a-fine-not-exceeding-one-hundred-dollars~~ guilty of a simple

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misdemeanor.

Sec. 105. Section one hundred fifteen point twenty (115.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine-not exceeding-one-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 106. Section one hundred sixteen point sixteen (116.16), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine-not exceeding-one-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 107. Section one hundred sixteen point twenty-nine (116.29), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person who violates any provisions of section 116.25 shall be guilty of a serious misdemeanor~~,-and-upon-conviction,-shall-be-subject-to-a-fine-of-not-more-than-five-hundred-dollars,-or-to-imprisonment-for-not-more-than-one-year,-or-to-both-such-fine-and-imprisonment~~.

Sec. 108. Section one hundred seventeen point forty-three (117.43), Code 1975, is amended to read as follows:

117.43 PENALTIES. Any person found guilty of violating a provision of sections 117.1 to 117.42, inclusive, in a first offense shall be ~~punished-by-a-fine-of-not-to-exceed-one-hundred-dollars-or-by-imprisonment-for-a-term-of-not-to-exceed thirty-days-in-jail~~ guilty of a simple misdemeanor.

Sec. 109. Section one hundred seventeen point forty-five

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(117.45), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who shall violate the provisions of this section shall be ~~imprisoned in the penitentiary not exceeding two years, or may be fined in the discretion of the court, not exceeding five thousand dollars, or imprisoned in the county jail not more than one year~~ guilty of a fraudulent practice.

Sec. 110. Section one hundred seventeen point fifty-two (117.52), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 111. Section one hundred seventeen A point five (117A.5), Code 1975, is amended to read as follows:

117A.5 PENALTIES.

1. Any person, firm, partnership, corporation, company, or association representing in any manner that the state, the commission or any officer thereof has recommended or acquiesced in the recommendation of the purchase of any subdivided land offered for sale or lease, in advertising or offering such subdivided land for sale or lease, shall be guilty of a serious misdemeanor ~~and shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment~~.

2. Any person, officer, director, agent, or employee of a person, company, firm, partnership, association, or corporation offering to sell or lease, or selling or leasing, subdivided land prior to the filing of the offering statement and the application required by this chapter shall be

guilty of a serious misdemeanor ~~and punished by a fine not to exceed two thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment~~.

3. Except as provided in subsection 2, every person, officer, director, agent, or employee of a person, company, firm, partnership, corporation, or association who authorizes, directs, or aids in the publication, advertisement, distribution, or circulation of any device, scheme, or artifice for obtaining money or property by means of any false pretense, representation, or promise concerning any subdivided land offered for sale or lease, and every person, officer, director, agent, or employee of a company, firm, partnership, corporation, or association who make or attempts to make fictitious or pretended purchases or sales of subdivided lands in this state, or in any other respect willfully violates or fails to comply with any of the provisions of this chapter, or omits or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement of the commission under the provisions of this chapter, is guilty of a serious misdemeanor ~~and shall be punished by a fine not to exceed two thousand dollars or by imprisonment in the county jail for a term not to exceed one year or by both such fine and imprisonment, and if such person is a licensee under chapter 117, the commission also may revoke or suspend his license in the manner provided in such chapter~~.

Sec. 112. Section one hundred eighteen point nineteen (118.19), Code 1975, is amended to read as follows:

118.19 VIOLATIONS--PUNISHMENT. Any person who practices or offers to practice architecture or who uses the word architect or any word or any letters or figures indicating or tending to imply that the person using the same in an architect, without first having complied with the provisions of this chapter, shall be deemed guilty of a serious misdemeanor ~~and shall be punished with a fine of not more than two hundred~~

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~~dollars-or-imprisonment-for-not-more-than-one-year,-or-both such-fine-and-imprisonment.~~

Sec. 113. Section one hundred eighteen point twenty-seven (118.27), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine not-exceeding-one-hundred-dollars-or-by-imprisonment-in-the county-jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 114. Section one hundred eighteen A point eighteen (118A.18), Code 1975, is amended to read as follows:

118A.18 UNLAWFUL PRACTICE. Any person who uses the words landscape architect or any word or any letters or figures indicating or tending to imply that the person using the same is a landscape architect, without having a valid certificate of registration as a landscape architect issued pursuant to this chapter, is guilty of a simple misdemeanor ~~and-upon conviction-may-be-sentenced-to-pay-a-fine-of-not-more-than five-hundred-dollars-or-be-imprisoned-for-not-more-than-three months,-or-be-subject-to-both-such-fine-and-imprisonment.~~

Sec. 115. Section one hundred nineteen point one (119.1), Code 1975, is amended to read as follows:

119.1 FRAUDULENT MARKING. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made, in whole or in part, of gold or any alloy of gold, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, any mark indicating or designed to indicate that the gold or alloy in such article is of a greater degree of fineness than the actual fineness or qualify thereof, unless the actual fineness thereof, in the case of flatware or watch-

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cases, be not less by more than three one-thousandths parts, and in case of all other articles be not less by more than one-half carat than the fineness indicated by the marks stamped, branded, engraved, or imprinted upon any part of such aticle, or upon any tag, card, or label attached thereto, or upon any container in which such article is enclosed according to the standards and subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeaner~~ fraudulent practice.

Sec. 116. Section one hundred nineteen point three (119.3), Code 1975, is amended to read as follows:

119.3 "STERLING SILVER." Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having marked, stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, the words "sterling silver" or "sterling" or any colorable imitation thereof, unless nine hundred twenty-five one-thousands of the component parts of the metal purporting to be silver of which such aticle is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeaner~~ fraudulent practice, but in the case of all such articles there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standard.

Sec. 117. Section one hundred nineteen point four (119.4), Code 1975, is amended to read as follows:

119.4 "COIN SILVER." Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having marked, stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached

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thereto, or upon any box, package, cover, or wrapper in which such article is enclosed, the words "coin" or "coin silver", or any colorable imitation thereof, unless nine hundred one-thousandths of the component parts of the metal appearing or purporting to be silver of which such article is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice; but in case of all such articles there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standards.

Sec. 118. Section one hundred nineteen point five (119.5), Code 1975, is amended to read as follows:

119.5 OTHER ARTICLES OF SILVER. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said aticle is enclosed, any mark or word, other than the word "sterling" or the word "coin", indicating, or designed to indicate that the silver or alloy of silver in said article is of a greater degree of fineness than the actual fineness or quality, unless the actual fineness of the silver or alloy or silver of which said article is composed be not less by more than four one-thousandths parts than the actual fineness indicated by the said mark or word, other than the word "sterling" or "coin", stamped, branded, engraved, or imprinted upon any part of said article, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 119. Section one hundred nineteen point seven (119.7), Code 1975, is amended to read as follows:

119.7 GOLD-PLATED OR GOLD-FILLED ARTICLES. Any person

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making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal having deposited or plated thereon, or brazed or otherwise affixed thereto, a plate, plating, covering, or sheet of gold or of any alloy of gold and which article is known in the market as "rolled gold-plate", "gold-plate", "gold-filled", or "gold-electroplate", or by any similar designation, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, any word or mark usually employed to indicate the fineness of gold, unless said word be accompanied by other words plainly indicating that such article or part thereof is made of rolled gold-plate, or gold-plate, or gold-electroplate, or is gold-filled, as the case may be, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 120. Section one hundred nineteen point eight (119.8), Code 1975, is amended to read as follows:

119.8 SILVER-PLATED ARTICLES. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal having deposited or plated thereon, or brazed or otherwise affixed thereto, a plate, plating, covering, or sheet of silver or of any alloy of silver, and which article is known in the market as "silver-plate" or "silver-electroplate", or by any similar designation, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is encased or enclosed, the word "sterling" or the word "coin" either alone or in conjunction with any other words or marks, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 121. Section one hundred nineteen point nine (119.9), Code 1975, is amended to read as follows:

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119.9 VIOLATION. Every person guilty of a violation of the provisions of this chapter, and every officer, manager, director, or agent of any such person directly participating in such violation or consenting thereto, shall be ~~punished by a fine of not more than five hundred dollars or imprisonment for not more than three months, or both, at the discretion of the court~~ guilty of a simple misdemeanor; but nothing in this chapter shall apply to articles manufactured prior to June 13, 1907.

Sec. 122. Section one hundred twenty point thirteen (120.13), Code 1975, is amended to read as follows:

120.13 PENALTY. Anyone not having a certificate of registration who shall hold himself out as a watchmaker or as one qualified to do watchmaking or anyone who shall violate any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment~~.

Sec. 123. Section one hundred twenty point seventeen (120.17), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 124. Section one hundred twenty-one point five (121.5), Code 1975, is amended to read as follows:

121.5 PENALTY. Any person or persons, firm or firms, partnership or partnerships, association or associations, corporation or corporations, or any agent or servant thereof, who shall violate any of the provisions of this chapter shall be ~~punishable by fine not to exceed three hundred dollars~~

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~~or by imprisonment not to exceed ninety days, or both~~ guilty of a simple misdemeanor.

Sec. 125. Section one hundred twenty-two point six (122.6), Code 1975, is amended to read as follows:

122.6 VIOLATIONS. Any person who shall violate the provisions of this chapter or who shall solicit funds without a permit, or if under a permit thereafter divert the same to purposes other than for which said donations were contributed, shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not to exceed thirty days~~.

Sec. 126. Section one hundred twenty-three point forty-eight (123.48), subsection two (2), Code 1975, is amended to read as follows:

2. Any person under legal age who presents to any vendor falsified evidence of age as provided in subsection 1 of this section shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days~~.

Sec. 127. Section one hundred twenty-three point fifty (123.50), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any of the provision of section 123.49 shall be ~~subject to a fine of not to exceed one hundred dollars or to imprisonment for not more than thirty days in the county jail~~ guilty of a simple misdemeanor.

Sec. 128. Section one hundred twenty-three point fifty-one (123.51), subsection four (4), Code 1975, is amended to read as follows:

4. Violations of this section shall be a simple misdemeanor ~~punishable by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding thirty days~~.

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Sec. 129. Section one hundred twenty-three point eighty-seven (123.87), Code 1975, is amended to read as follows:

123.87 PROMPT SERVICE. It shall be a simple misdemeaor for any peace officer to delay service of original notices, writs of injunction, writs of abatement, or warrants for contempt in any equity case filed for injunction or abatement by the state.

Sec. 130. Section one hundred twenty-three point ninety-nine (123.99), Code 1975, is amended to read as follows:

123.99 FALSE STATEMENTS. If any person, for the purpose of procuring the shipment, transportation, or conveyance of any intoxicating liquors within this state, shall make to any person, company, corporation, or common carrier, or to any agent thereof, any false statements as to the character or contents of any box, barrel, or other vessel or package containing such liquors; or shall refuse to give correct and truthful information as to the contents of any such box, barrel, or other vessel or package so sought to be transported or conveyed; or shall falsely mark, brand, or label such box, barrel, or other vessel or package in order to conceal the fact that the same contains intoxicating liquors; or shall by any device or concealment procure or attempt to procure the conveyance or transportation of such liquors as herein prohibited, he shall be ~~fined for each offense one hundred dollars and costs of prosecution, and be committed to the county jail until such fine and costs are paid~~ guilty of a simple misdemeanor.

Sec. 131. Section one hundred twenty-three point one hundred two (123.102), Code 1975, is amended to read as follows:

123.102 INSPECTION OF SHIPPING RECORDS. The record book required by section 123.101 shall, during business hours, be open to inspection by any peace or law enforcing officer. It shall be a simple misdemeanor to refuse such inspection.

Sec. 132. Section one hundred twenty-three point one hundred four (123.104), unnumbered paragraph one (1), Code 1975,

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is amended to read as follows:

It shall be a simple misdemeanor for any corporation, common carrier, person, or any agent or employee thereof:

Sec. 133. Section one hundred twenty-seven point eleven (127.11), subsection one (1), Code 1975, is amended by striking the subsection and inserting in lieu thereof the following:

1. SERVICE OF NOTICE. Notice shall be served at least three days prior to the hearing by posting a copy thereof in some conspicuous place on or about the building or place where said property was seized.

If the person or persons named or described in the information as owner or keeper of the property so seized be resident of said county, then by personally serving said notice on said person, or by leaving a copy of said notice at the last known usual place of residence of said person with some adult member of his family if found at said residence.

In addition notice shall be published once a week for two weeks in some newspaper published in the city or county in which said conveyance was seized, and if the conveyance be a motor vehicle a copy of the aforesaid notice shall forthwith be mailed to the commissioner of public safety.

Sec. 134. Section one hundred thirty-five point twenty (135.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who sells or offers to sell any pipe for use in the construction, reconstruction, or modificaton of a water well which is not clearly marked as provided in this section or who willfully alters any markings on such pipe in violation of this section, shall be guilty of a simple misdemeanor~~, and, upon conviction, shall be fined not more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~. Each violation shall constitute a separate offense.

Sec. 135. Section one hundred thirty-five point thirty-

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six (135.36), Code 1975, is amended to read as follows:

135.36 INTERFERENCE WITH HEALTH OFFICER. Any person resisting or interfering with the department, its employees, or authorized agents, in the discharge of any duty imposed by law shall be guilty of a simple misdemeanor.

Sec. 136. Section one hundred thirty-five point thirty-eight (135.38), Code 1975, is amended to read as follows:

135.38 PENALTY. Any person who knowingly violates any provision of this chapter, or of the rules of the department, or any lawful order, written or oral, of the department or of its officers, or authorized agents, shall be guilty of a simple misdemeanor. ~~If said rules relate to the practice of cosmetology or barbering said misdemeanors shall be punished by a fine of not to exceed one hundred dollars or by imprisonment not to exceed thirty days.~~

Sec. 137. Section one hundred thirty-five point forty-one (135.41), Code 1975, is amended to read as follows:

135.41 PUBLICATION. The state department of health, the Iowa medical society or any of its allied medical societies or the Iowa society of osteopathic physicians and surgeons or any in-hospital staff committee shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances. A violation of this section shall constitute a simple misdemeanor ~~and be punishable as such~~.

Sec. 138. Section one hundred thirty-five B point fifteen (135B.15), Code 1975, is amended to read as follows:

135B.15 PENALTIES. Any person establishing, conducting, managing, or operating any hospital without a license shall be guilty of a serious misdemeanor ~~and upon conviction there-~~

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~~of shall be fined not less than one hundred dollars or more than five hundred dollars~~, and each day of continuing violation after conviction shall be considered a separate offense.

Sec. 139. Section one hundred thirty-five C point twenty-one (135C.21), Code 1975, is amended to read as follows:

135C.21 PENALTY. Any person establishing, conducting, managing, or operating any health care facility without a license shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months, or both~~. Each day of continuing violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense. Any such person establishing, conducting, managing or operating any health care facility without a license may be by any court of competent jurisdiction temporarily or permanently restrained therefrom in any action brought by the state.

Sec. 140. Section one hundred thirty-five D point eighteen (135D.18), Code 1975, is amended to read as follows:

135D.18 PENALTY. Any person violating any provision of this chapter shall be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 141. Section one hundred thirty-seven point twenty-one (137.21), Code 1975, is amended to read as follows:

137.21 PENALTIES. Any person who violates any provision of this chapter or the rules of a local board or any lawful order of said board, its officers, or authorized agents shall be guilty of a simple misdemeanor ~~and shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days~~. Each additional day of neglect or failure to comply with such provision, rule or lawful order after notice of violation by the

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local board shall constitute a separate offense.

Sec. 142. Section one hundred thirty-eight point nineteen (138.19), Code 1975, is amended to read as follows:

138.19 PENALTIES. Any person failing to comply with any provision of this chapter, or with any rule or order issued pursuant to the provisions of this chapter, or interfering with, impeding, or obstructing in any manner, the commissioner, department, or any of its employees in the performance of official duties pursuant to this chapter, shall be guilty of a simple misdemeanor ~~and fined in an amount of not less than fifty dollars nor more than one hundred dollars for each such offense~~. If any person further fails to comply with any provisions of this chapter, or with any rule or order issued pursuant to the provisions of this chapter, the commissioner shall enforce such provision, rule, or order by filing an action for injunction against such person in the district court in the county wherein such violation or violations occur.

Sec. 143. Section one hundred thirty-nine point thirty-two (139.32), Code 1975, is amended to read as follows:

139.32 PENALTY. Any person who knowingly violates any provision of this chapter, or of the rules of the state department or the local board, or any lawful order, written or oral, of said department or board, or of their officers or authorized agents, shall be guilty of a simple misdemeanor.

Sec. 144. Section one hundred forty point fifteen (140.15), Code 1975, is amended to read as follows:

140.15 PENALTY. Any person violating any of the provisions of this chapter shall be ~~punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period not to exceed thirty days, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 145. Section one hundred forty-one point six (141.6), Code 1975, is amended to read as follows:

141.6 PENALTY. A person who violates the confidentiality

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provision of this chapter shall be guilty of a simple misdemeanor ~~and shall, upon conviction, be punished by a fine of not more than one hundred dollars~~.

Sec. 146. Section one hundred forty-two point five (142.5), Code 1975, is amended to read as follows:

142.5 DISPOSITION AFTER DISSECTION. The remains of every body received for scientific purposes under this chapter shall be decently buried or cremated after it has been used for said purposes, and failure to do so shall be a simple misdemeanor.

Sec. 147. Section one hundred forty-two point eight (142.8), Code 1975, is amended to read as follows:

142.8 PURPOSE FOR WHICH BODY USED. The dead bodies delivered under this chapter shall be used only within the limits of this state for the purpose of scientific, medical, and surgical study, and no person shall remove the same beyond the limits of this state or in any manner traffic therein. Any person who shall violate this section shall be ~~punished by imprisonment for a term not exceeding one year in the county jail~~ guilty of a serious misdemeanor.

This section shall not apply to bodies given under authority of the Uniform Anatomical Gift Act.

Sec. 148. Section one hundred forty-two point nine (142.9), Code 1975, is amended to read as follows:

142.9 FAILURE TO DELIVER DEAD BODY. Any person having the custody of the dead body of any human being which is required to be delivered for scientific purposes by this chapter, who shall fail to notify the state department of the existence of such body, or fail to deliver the same in accordance with the instruction of the department, shall be ~~punished by a fine not exceeding five hundred dollars~~ guilty of a simple misdemeanor.

Sec. 149. Section one hundred forty-two point ten (142.10), Code 1975, is amended to read as follows:

142.10 USE WITHOUT PROPER RECORD. Any physician or mem-

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ber of the instructional staff of any college or school who uses, or permits others under his charge to use the dead body of a human being for the purpose of medical or surgical study without the record required in section 142.6 having been made, or who shall refuse to allow any peace officer or relative of the deceased to inspect said record or body, shall be ~~punished by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both~~ guilty of a serious misdemeanor.

Sec. 150. Section one hundred forty-two point eleven (142.11), Code 1975, is amended to read as follows:

142.11 PENALTIES. Any person who shall receive or deliver any dead body of a human being knowing that any of the provisions of this chapter have been violated, shall be ~~imprisoned in the penitentiary not more than two years, or fined not exceeding twenty-five hundred dollars, or both~~ guilty of an aggravated misdemeanor.

Sec. 151. Section one hundred forty-four point fifty-two (144.52), unnumbered paragraph one (1), Code 1975, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Any person committing any of the following acts is guilty of a serious misdemeanor:

Sec. 152. Section one hundred forty-four point fifty-three (144.53), unnumbered paragraph one (1), Code 1975, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Any person committing any of the following acts is guilty of a simple misdemeanor:

Sec. 153. Section one hundred forty-seven point seventy-four (147.74), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person who falsely holds himself out by the use of any professional title or abbreviation, either in writing, cards, signs, circulars, or advertisements, to be a prac-

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titioner of a system of the healing arts other than the one under which he holds a license or who fails to use the following designations shall be guilty of a simple misdemeanor ~~and shall be fined not less than twenty-five dollars, nor more than one hundred dollars, or be sentenced to thirty days in jail~~.

Sec. 154. Section one hundred forty-seven point eighty-four (147.84), Code 1975, is amended to read as follows:

147.84 FORGERIES. Any person who shall file or attempt to file with the state department of health any false or forged diploma, or certificate or affidavit of identification or qualification, shall be guilty of ~~forgery and punished accordingly~~ a fraudulent practice.

Sec. 155. Section one hundred forty-seven point eighty-five (147.85), Code 1975, is amended to read as follows:

147.85 FRAUD. Any person who shall present to the department a diploma or certificate of which he is not the rightful owner, for the purpose of procuring a license, or who shall falsely personate anyone to whom a license has been issued by said department shall be ~~punished as provided in section 147.86~~ guilty of a serious misdemeanor.

Sec. 156. Section one hundred forty-seven point eighty-six (147.86), Code 1975, is amended to read as follows:

147.86 PENALTIES. Any person violating any provision of this or the following chapters of this title, except insofar as said provisions apply or relate to or affect the practice of pharmacy, of cosmetology, and of barbering, shall be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 157. Section one hundred forty-seven point one hundred thirteen (147.113), Code 1975, is amended to read as follows:

147.113 VIOLATIONS. Any person failing to make the re-

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port required herein shall be guilty of a simple misdemeanor ~~and upon conviction shall be fined not to exceed one hundred dollars~~.

Sec. 158. Section one hundred forty-seven point one hundred thirty (147.130), Code 1975, is amended to read as follows:

147.130 MISDEMEANOR. It shall be a serious misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless he is the holder of a license as a nursing home administrator issued in accordance with the provisions of this division.

Sec. 159. Section one hundred forty-seven point one hundred thirty-four (147.134), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 160. Section one hundred fifty-four A point six (154A.6), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 161. Section one hundred fifty-four A point twenty-seven (154A.27), Code 1975, is amended to read as follows:

154A.27 PENALTIES. A violation of any provisions of this chapter is ~~punishable, upon conviction, by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days in the county jail, or by both such fine~~

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~~and-imprisonment~~ a simple misdemeanor.

Sec. 162. Section one hundred fifty-five point twenty-six (155.26), Code 1975, is amended to read as follows:

155.26 POSSESSION OF PRESCRIPTION DRUGS. Any person found in possession of a drug or medicine limited by law to dispensation by a prescription, unless such drug or medicine was so lawfully dispensed, shall be deemed guilty of ~~violating the provisions of this section, and upon conviction thereof, shall be fined not more than one thousand dollars or be imprisoned in the county jail for not more than one year, or both~~ a serious misdemeanor. This section shall not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatrist or nurse acting under the direction of a physician or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier or messenger when transporting such drug or medicine in the same unbroken package in which the drug or medicine was delivered to him for transportation.

Sec. 163. Section one hundred fifty-five point twenty-seven (155.27), Code 1975, is amended to read as follows:

155.27 PENALTY. Any person violating any of the provisions of this chapter or any chapter pertaining to or affecting the practice of pharmacy for which a specific penalty is not otherwise provided, shall be deemed guilty of a simple misdemeanor~~, and upon conviction thereof, shall be fined not more than five hundred dollars or shall be imprisoned in the county jail for not more than six months, or both~~.

Sec. 164. Section one hundred fifty-five point thirty (155.30), unnumbered paragraphs two (2) and three (3), Code 1975, are amended to read as follows:

If the prescription drug is a controlled substance as defined in section 204.101, subsection 6, the person shall be punished pursuant to section 204.401, subsection 1, and section 204.411. If the prescription drug is not a controlled substance, the person shall upon conviction of a first of-

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fense be ~~fined not more than one thousand dollars or be imprisoned in the county jail for not more than one year, or both~~ guilty of a serious misdemeanor. For a second offense, or if in case of a first conviction of violation of any provision of section 155.29 or of violation of any provision of this section, the offender shall previously have been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~upon conviction~~ shall be ~~fined not more than two thousand dollars and be imprisoned in the state penitentiary not less than two or more than five years~~ guilty of an aggravated misdemeanor. For a third or subsequent offense in violation of this section or in violation of section 155.29, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~upon conviction~~ shall be ~~fined not more than five thousand dollars and be imprisoned in the state penitentiary not less than five or more than ten years~~ guilty of a class "D" felony.

Any person violating any provision of this chapter by selling, giving away, or administering any prescription drug to a minor shall ~~upon conviction thereof be punished by imprisonment in the state penitentiary for not less than five or more than twenty years~~ be guilty of a class "C" felony.

Sec. 165. Section one hundred fifty-six point twelve (156.12), Code 1975, is amended to read as follows:

156.12 FUNERAL DIRECTORS AND EMBALMERS--SOLICITATION OF BUSINESS--PENALTY. Every funeral director or embalmer, or any person acting for him, who pays or causes to be paid, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business for such funeral director or embalmer, and every person who accepts or offers to accept any money or other thing of value as a commission or gratuity from a funeral director or em-

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balmer in order to secure business for him shall be deemed guilty of a simple misdemeanor~~, and upon conviction thereof shall be fined not more than five hundred dollars or shall be imprisoned in the county jail for not less than thirty days, or both~~; provided that nothing herein contained shall be construed as prohibiting any person, firm, co-operative burial association or corporation, subject to the provisions of this chapter, from using legitimate and honest advertising.

Sec. 166. Section one hundred fifty-nine point seventeen (159.17), Code 1975, is amended to read as follows:

159.17 INTERFERENCE WITH DEPARTMENT. Any person resisting or interfering with the department, its employees or authorized agents, in the discharge of any duty imposed by law shall be guilty of a simple misdemeanor.

Sec. 167. Section one hundred sixty-two point thirteen (162.13), unnumbered paragraphs one (1) and two (2), Code 1975, are amended to read as follows:

Operation of a pound, animal shelter, pet shop, boarding kennel, commercial kennel, hobby kennel or public auction, as defined in section 162.2, or dealing in dogs or cats, or both, either as a dealer or a commercial breeder, without a currently valid license or a certificate of registration shall constitute a simple misdemeanor and each day of such operation shall constitute a separate offense. ~~Upon conviction, a violator shall be fined not more than one hundred dollars or imprisoned in the county jail not more than thirty days.~~

Failure of any person licensed or registered to adequately house, feed or water dogs or cats, or both, in his possession or custody or failure of any operator of a licensed pet shop to adequately house, feed, or water any vertebrate animal shall constitute a simple misdemeanor. ~~Upon conviction, a violator shall be fined not more than one hundred dollars or imprisoned in the county jail not more than thirty days.~~ Such animals shall be subject to seizure and impoundment and

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may be sold or destroyed by euthanasia at the discretion of the secretary and such failure shall also constitute grounds for revocation of license after public hearing. The commission of an act declared to be an unlawful practice under section 713.24, by any person licensed under this chapter shall constitute grounds for revocation of license.

Sec. 168. Section one hundred sixty-two point fifteen (162.15), Code 1975, is amended to read as follows:

162.15 VIOLATION BY ANIMAL WARDEN. Violation of any provision of this chapter which relates to the seizing, impoundment, and custody of an animal by an animal warden shall constitute a simple misdemeanor and each animal handled in violation shall constitute a separate offense. ~~Upon conviction, a violator shall be fined not more than one hundred dollars or imprisoned in the county jail not more than thirty days.~~

Sec. 169. Section one hundred sixty-three point eighteen (163.18), Code 1975, is amended to read as follows:

163.18 FALSE REPRESENTATION. Any person who knowingly makes any false representation as to the purpose for which a shipment of animals is being or will be made, with intent to avoid or prevent an inspection of such animals for the purpose of determining whether the animals are free from disease, shall be guilty of a simple misdemeanor ~~and punished as provided in this chapter~~.

Sec. 170. Section one hundred sixty-three point twenty-one (163.21), Code 1975, is amended to read as follows:

163.21 PENALTIES. Any person who shall violate any provision of this chapter or any rule adopted thereunder by the department shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year~~ guilty of a simple misdemeanor.

Sec. 171. Section one hundred sixty-three point twenty-three (163.23), Code 1975, is amended to read as follows:

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163.23 FALSE CERTIFICATES OF HEALTH--PENALTY. Any veterinarian issuing a certificate of health for an animal knowing that the animal described therein was not the animal from which the tests were made as a basis for the certificate or who otherwise falsifies any such certificate shall be guilty of a ~~misdemeanor-and-punished-as-provided-in-this-chapter~~ fraudulent practice.

Sec. 172. Section one hundred sixty-three point twenty-four (163.24), Code 1975, is amended to read as follows:

163.24 USING FALSE CERTIFICATE. Any person, firm, or corporation importing, exporting, or transporting within this state or selling or offering for sale any animal for which a certificate of health has been issued and who uses such certificate in connection with any of said transactions knowing that the animal described in said certificate was not the animal from which the tests were made as a basis for the certificate or who knowingly uses any altered or otherwise false certificate in connection with any of said transactions shall be guilty of a ~~misdemeanor-and-punished-as-provided-in-this-chapter~~ fraudulent practice.

Sec. 173. Section one hundred sixty-three point twenty-five (163.25), Code 1975, is amended to read as follows:

163.25 ALTERING CERTIFICATE. Any person, firm, or corporation removing or altering on any animal, tested or being tested for disease, any tag or mark of identification authorized by the department or inserted by any qualified veterinarian or altering any certificate of vaccination by one authorized to vaccinate animals shall be guilty of a ~~misdemeanor-and-punished-as-provided-in-this-chapter~~ fraudulent practice.

Sec. 174. Section one hundred sixty-three point twenty-nine (163.29), Code 1975, is amended to read as follows:

163.29 PENALTY. Any person, firm, partnership, or corporation violating the provisions of this division shall~~,~~ ~~upon-conviction-thereof,~~ be ~~fined-not-less-than-one-hundred~~

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~~dollars-and-not-to-exceed-five-hundred-dollars~~ guilty of a simple misdemeanor. Each day the provisions of section 163.27, or any rule made pursuant thereto, is violated shall be a separate offense.

Sec. 175. Section one hundred sixty-three A point ten (163A.10), Code 1975, is amended to read as follows:

163A.10 PENALTY. Any person who shall violate any provision of this chapter or any rule adopted thereunder by the department of agriculture shall be ~~punished-by-a-fine-of-not less-than-one-hundred-dollars-nor-more-than-one-thousand-dollars,-or-by-imprisonment-in-the-county-jail-for-not-more-than one-year~~ guilty of a serious misdemeanor.

Sec. 176. Section one hundred sixty-four point thirty-one (164.31), Code 1975, is amended to read as follows:

164.31 PENALTIES. Any person found guilty of violating the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and-punished-by-a-fine-not-to-exceed-one hundred-dollars-on-first-offense,-two-hundred-dollars-on second-offense,-and-three-hundred-dollars-on-the-third-and all-subsequent-offenses.~~

Sec. 177. Section one hundred sixty-five point twenty-seven (165.27), Code 1975, is amended to read as follows:

165.27 PENALTY. Any owner of dairy or breeding cattle in the state who prevents, hinders, obstructs, or refuses to allow a veterinarian authorized by the department of agriculture to conduct such tests for tuberculosis on his cattle, shall be deemed guilty of a simple misdemeanor ~~and shall-be-punished-by-a-fine-of-not-more-than-one-hundred dollars,-nor-less-than-twenty-five-dollars.~~

Sec. 178. Section one hundred sixty-five point thirty-three (165.33), Code 1975, is amended to read as follows:

165.33 PENALTY. Any person found guilty of violating the provisions of section 165.32 shall be deemed guilty of a simple misdemeanor ~~and-punished-by-a-fine-of-not-to-exceed-one-hundred-dollars-nor-less-than-twenty-five-dollars.~~

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Sec. 179. Section one hundred sixty-six point thirty-eight (166.38), Code 1975, is amended to read as follows:

166.38 COMPENSATION. No licensed veterinarian shall receive, directly or indirectly, any compensation of any kind for the handling, sale, or use of any biological products, other than his charges for administering the same, unless he makes known in writing the amount of such compensation, if requested to do so by the person using biological products. Any veterinarian violating this section shall ~~forfeit his license to practice and the same shall not be renewed for a period of one year~~ be guilty of a simple misdemeanor.

Sec. 180. Section one hundred sixty-six A point fourteen (166A.14), Code 1975, is amended to read as follows:

166A.14 PENALTY. Any person, firm or partnership or corporation violating the provisions of this chapter shall ~~upon conviction thereof be fined not less than one hundred dollars and not to exceed five hundred dollars~~ be guilty of a simple misdemeanor.

Sec. 181. Section one hundred sixty-seven point nineteen (167.19), Code 1975, is amended to read as follows:

167.19 PENALTY. The violation of any of the provisions of this chapter or any rule adopted thereunder by the department shall be ~~punishable by a fine of not less than five dollars nor more than one hundred dollars or by imprisonment in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 182. Section one hundred sixty-eight point eight (168.8), Code 1975, is amended to read as follows:

168.8 PUNISHMENT. Any person, partnership, corporation, company, firm, society, or association who violates any provision of this chapter shall be guilty of a simple misdemeanor ~~and shall be punished by a fine not exceeding one hundred dollars~~.

Sec. 183. Section one hundred sixty-nine point forty-three (169.43), Code 1975, is amended to read as follows:

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169.43 FORGERIES. Any person who shall file or attempt to file with the department of agriculture any false or forged diploma, or certificate or affidavit of identification or qualification, shall be guilty of ~~forgery and punished accordingly~~ a fraudulent practice.

Sec. 184. Section one hundred sixty-nine point forty-five (169.45), Code 1975, is amended to read as follows:

169.45 PENALTY. Any person who violates any provision of this chapter shall be guilty of a simple misdemeanor.

Sec. 185. Section one hundred sixty-nine point fifty-six (169.56), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 186. Section one hundred seventy point thirty-eight (170.38), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The state fire marshal shall adopt, amend, promulgate, and enforce such rules and standards relating to fire protection and fire safety in hotels, restaurants and food establishments, but such rules shall be promulgated only after public hearing. Any person, firm or corporation violating any of said rules of said fire marshal shall be deemed guilty of a simple misdemeanor, ~~and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars,~~ and each day of a continuing violation after conviction shall be considered a separate offense.

Sec. 187. Section one hundred seventy point forty-nine (170.49), Code 1975, is amended to read as follows:

170.49 PENALTY. Any person who shall violate any provi-

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sion of this chapter shall be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 188. Section one hundred seventy-one point sixteen (171.16), Code 1975, is amended to read as follows:

171.16 PENALTIES. Any person violating any of the provisions of this chapter shall be ~~punished for the first offense by a fine of not less than twenty five dollars nor more than one hundred dollars, and for the second offense by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 189. Section one hundred seventy-two point eleven (172.11), Code 1975, is amended to read as follows:

172.11 PENALTIES. Any person who shall violate any provision of this chapter shall be ~~fined not less than twenty five dollars nor more than one hundred dollars or be imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 190. Section one hundred seventy-two A point nine (172A.9), Code 1975, is amended to read as follows:

172A.9 PENALTY. Any person violating any provision of this chapter shall be ~~punished by a fine of not less than five hundred dollars nor more than two thousand five hundred dollars, or imprisonment in the county jail for not more than six months, or be punished by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 191. Section one hundred seventy-four point seven (174.7), Code 1975, is amended to read as follows:

174.7 REFUSAL TO REMOVE OBSTRUCTIONS. Any person owning, occupying, or using any such obstruction who shall refuse or fail to remove the same when ordered to do so by the management shall be ~~liable to a fine of not less than five dollars nor more than one hundred dollars for each such offense~~

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guilty of a simple misdemeanor.

Sec. 192. Section one hundred seventy-four point twenty-one (174.21), Code 1975, is amended to read as follows:

174.21 VIOLATIONS--PENALTY. Any person convicted of a violation of section 174.20 shall be ~~imprisoned in the penitentiary for a period of not more than three years, or in the county jail for not more than one year, and be fined in a sum not exceeding one thousand dollars~~ guilty of a fraudulent practice.

Sec. 193. Section one hundred seventy-six point fourteen (176.14), Code 1975, is amended to read as follows:

176.14 DIVIDENDS--DIVERSION OF FUNDS. No dividend shall ever be declared by the association and any diversion of the funds or property of such organization to any other purpose than that for which such organization was incorporated shall constitute ~~larceny and be punished accordingly~~ theft.

Sec. 194. Section one hundred seventy-seven A point sixteen (177A.16), Code 1975, is amended to read as follows:

177A.16 VIOLATIONS. Any person, copartnership, association or corporation, or any combination of individuals, violating any provision of a quarantine promulgated under the authority of this chapter, or of any rules issued supplemental thereto, shall be guilty of a simple misdemeanor ~~and upon conviction thereof be punished by imprisonment in the county jail not exceeding thirty days or by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense~~.

Sec. 195. Section one hundred seventy-seven A point eighteen (177A.18), Code 1975, is amended to read as follows:

177A.18 VIOLATIONS. Any person who shall violate any provision or requirement of this chapter, or of the rules made or of any notice given pursuant thereto, or who shall forge, counterfeit, deface, destroy, or wrongfully use, any certificate provided for in this chapter, or in the rules and regulations made pursuant thereto, shall be deemed guilty

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of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars or by imprisonment for not more than thirty days~~.

Sec. 196. Section one hundred seventy-seven A point nineteen (177A.19), subsection four (4), Code 1975, is amended to read as follows:

4. The ~~penalties~~ procedures provided in section 177A.17 and all other applicable provisions of sections 177A.5 to 177A.18 shall govern and apply to the enforcement of this section.

Sec. 197. Section one hundred seventy-nine point eleven (179.11), Code 1975, is amended to read as follows:

179.11 PENALTIES. ~~Any~~ Except as otherwise provided, any person who shall violate or aid in the violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail not to exceed thirty days~~. All prosecutions for alleged violations of the provisions of this chapter shall be by the county attorney of the county in which such alleged violation occurred and shall be instituted and conducted under the direction and authority of the attorney general of the state.

Sec. 198. Section one hundred eighty-one point twenty (181.20), Code 1975, is amended to read as follows:

181.20 MISDEMEANORS. Any person who shall violate or assist in the violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor.

Sec. 199. Section one hundred eighty-four A point fifteen (184A.15), Code 1975, is amended to read as follows:

184A.15 MISDEMEANOR. It is a simple misdemeanor for any person to willfully violate any provision of this chapter, or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the council

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or secretary.

Sec. 200. Section one hundred eighty-five point thirty-one (185.31), Code 1975, is amended to read as follows:

185.31 PENALTY. It is a simple misdemeanor for any person to willfully violate any provision of this chapter or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the secretary.

Sec. 201. Section one hundred eighty-seven point seven (187.7), Code 1975, is amended to read as follows:

187.7 UNLAWFUL USE OF BRAND. It shall be unlawful to use any brand for branding any horses, cattle, sheep, mules, or asses unless the brand has been recorded as provided by this chapter. Hot brands and cryo-brands, consisting of Arabic numerals only, may be used in conjunction with recorded brands for within the herd identification and as such shall not be recorded; and when so used shall not be evidence of ownership. Anyone convicted of violating this section shall be ~~fined a sum not to exceed one hundred dollars or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 202. Section one hundred eighty-seven point fourteen (187.14), Code 1975, is amended to read as follows:

187.14 TAMPERING WITH BRAND. Any person who shall brand, attempt to brand, or cause to be branded the animals of another, or who shall efface, deface, or obliterate or attempt to efface, deface, or obliterate any brand upon any animal or animals of another, or who shall brand, attempt to brand, or cause to be branded the recorded brand of another on any animal shall be ~~imprisoned in the penitentiary not to exceed two years or fined not to exceed one thousand dollars, or both~~ guilty of a fraudulent practice.

Sec. 203. Section one hundred eighty-eight point forty (188.40), Code 1975, is amended to read as follows:

188.40 PENALTY AGAINST FINDER. If any person shall sell,

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trade, or take out of the state any estray before the legal title shall have vested in him, he shall forfeit to the owner double its value, and shall also be guilty of a simple misdemeanor.

Sec. 204. Section one hundred eighty-eight point forty-six (188.46), Code 1975, is amended to read as follows:

188.46 PENALTY. Any officer who fails to perform the duties enjoined upon him in this chapter in relation to estrays, shall be ~~fined not less than five dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 205. Section one hundred eighty-nine point twenty-one (189.21), Code 1975, is amended to read as follows:

189.21 PENALTY. Unless otherwise provided, any person violating any provision of this title, or any rule made by the department and promulgated under the authority of said department, shall be ~~punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail not to exceed thirty days, and on a third conviction for the same offense may be restrained by injunction from operating such place of business~~ guilty of a simple misdemeanor.

Sec. 206. Section one hundred eighty-nine A point seventeen (189A.17), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any provisions of this chapter for which no other criminal penalty is provided shall ~~upon conviction be subject to imprisonment in the county jail for not more than one year, or a fine of not more than one thousand dollars, or both such imprisonment and fine~~ be guilty of a simple misdemeanor; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated, except as defined in section 189A.2, subsection 15, paragraph "h" such person shall be ~~subject to imprisonment in the penitentiary for not more than three years or a fine of not more than ten thousand dollars~~

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~~or both~~ guilty of a fraudulent practice.

Sec. 207. Section one hundred eighty-nine A point twenty (189A.20), Code 1975, is amended by striking unnumbered paragraph one (1).

Sec. 208. Section one hundred ninety-one point three (191.3), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person violating any provision of this section shall ~~upon conviction or plea of guilty be punished, for the first offense by a fine of one hundred dollars; for the second offense by a fine of three hundred dollars; for the third offense by a fine of five hundred dollars~~ be guilty of a simple misdemeanor and the suspension for one year of all licenses issued by the state of Iowa for the public eating place in which said violation occurred.

Sec. 209. Section one hundred ninety-one point five (191.5), Code 1975, is amended to read as follows:

191.5 ADVERTISING OLEOMARGARINE--RESTRICTIONS. No person, by himself, or agent, shall, by any means whatever, directly or indirectly, advertise or represent by statement, printing, writing, circular, poster, design, device, grade designation, advertisement, symbol, sound, or any combination thereof, that oleo, oleomargarine or margarine, or any brand of oleo, oleomargarine or margarine, is a dairy product for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase for consumption of oleo, oleomargarine or margarine, or any brand thereof. Whoever shall violate this provision shall be deemed guilty of a simple misdemeanor.

Sec. 210. Section one hundred ninety-one A point twelve (191A.12), Code 1975, is amended to read as follows:

191A.12 PENALTY. Any person who violates any provision of this chapter shall, upon conviction, be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 211. Section one hundred ninety-two point sixty-six

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(192.66), subsection eight (8), Code 1975, is amended to read as follows:

8. Any person violating any provisions of this section shall be ~~punished by a fine of not more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 212. Section one hundred ninety-two A point nineteen (192A.19), Code 1975, is amended to read as follows:

192A.19 REPORTS AND ANSWERS TO DEPARTMENT. Whenever the department has reason to believe that any distributor or retailer or processor may be in possession of information relevant to an investigation by it of suspected violations of the provisions of this chapter, the secretary may require such person to file with him in such form as he may prescribe special reports or answers in writing to specific questions furnishing such information. Such reports and answers shall be made under oath or otherwise as the secretary may prescribe and shall be filed with him within such reasonable period as he may prescribe. Any person who fails without lawful cause to file such reports or answers in writing within the period prescribed or shall willfully make or cause to be made any false statements in any such report or answer in writing shall be guilty of a simple misdemeanor ~~and upon conviction thereof fined not less than five hundred dollars nor more than one thousand dollars~~.

Sec. 213. Section one hundred ninety-four point twenty (194.20), Code 1975, is amended to read as follows:

194.20 PENALTY. Any person who, by himself or by his agent or employee, willfully violates any requirement of this chapter shall be ~~fined not less than fifty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 214. Section one hundred ninety-five point twenty-seven (195.27), Code 1975, is amended to read as follows:

195.27 PENALTIES. Any person who, by himself or by his agent or employee, willfully violates any requirement of this chapter shall be ~~fined not less than twenty-five dollars nor~~

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~~more-than-one-hundred-dollars~~ guilty of a simple misdemeanor.

Sec. 215. Section one hundred ninety-six point eighteen (196.18), Code 1975, is amended to read as follows:

196.18 PENALTY. Any person found guilty of any violation of this chapter shall~~,-upon-conviction-for-the-first offense,-be-fined-twenty-five-dollars;-for-the-second-offense, he-shall-be-fined-one-hundred-dollars;-and-for-the-third-and subsequent-offenses,-he-shall-be-fined-two-hundred-dollars~~ be deemed to have committed a simple misdemeanor. In addition to such fines, the court for the third offense shall suspend his license for thirty days; and for the fourth and any subsequent offense, such person's license shall be revoked for a period of one year.

Sec. 216. Section one hundred ninety-six A point twenty-three (196A.23), Code 1975, is amended to read as follows:

196A.23 PENALTY. Any person who willfully violates any provision of this chapter, willfully gives a false report, statement, or record required by the council, or willfully fails to furnish or render any report, statement or record required by the secretary shall be guilty of a simple misdemeanor.

Sec. 217. Section one hundred ninety-seven point six (197.6), Code 1975, is amended to read as follows:

197.6 VIOLATIONS. Any person who shall violate the provisions of this chapter shall, for each offense, be deemed guilty of a simple ~~misdemeanor and-punishable-as-such~~.

Sec. 218. Section one hundred ninety-eight point thirteen (198.13), subsection one (1), Code 1975, is amended to read as follows:

1. Any person convicted of violating any of the provisions of this chapter or who shall impede, hinder or otherwise prevent, or attempt to prevent, said secretary or his authorized agent in performance of his duty in connection with the provisions of this chapter, shall be guilty of a simple misdemeanor ~~and-shall-be-fined-not-less-than-twenty-~~

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~~five-dollars-or-more-than-one-hundred-dollars-for-the-first violation,-and-not-less-than-fifty-dollars-or-more-than-three hundred-dollars-for-a-subsequent-violation.~~

Sec. 219. Section one hundred ninety-nine point thirteen (199.13), Code 1975, is amended to read as follows:

199.13 PENALTY. Every violation of the provisions of this chapter shall be deemed a simple misdemeanor~~,-punishable by-a-fine-of-not-more-than-two-hundred-fifty-dollars~~. The department of agriculture through its duly authorized agent or agents, may institute proceedings in a court of competent jurisdiction to enforce the provisions of this chapter.

Sec. 220. Section two hundred point eighteen (200.18), subsection two (2), Code 1975, is amended to read as follows:

2. Any person ~~convicted-of~~ violating any provision of this chapter or the rules and regulations issued thereunder shall be ~~punished-by-a-fine-of-not-less-than-one-hundred-dollars-nor-more-than-two-hundred-fifty-dollars~~ guilty of a simple misdemeanor.

Sec. 221. Section two hundred one point eleven (201.11), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever sells, offers for sale, or exposes for sale or distribution any bulk agricultural lime, limestone, or aglime without complying with the provisions of this chapter, or permits any certification to accompany or be printed or stamped on any bill of lading, scale ticket, ticket, or delivery receipt or other instrument of sale, shipping or delivery, stating that the agricultural lime, limestone, or aglime contains a different number of pounds of ECCE than certified as provided in this chapter, or who shall adulterate any agricultural lime, limestone, or agline with foreign mineral matter or other foreign substances, or who shall adulterate the same with any substance injurious to the growth of plants, or make any false report, shall be deemed guilty

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of a simple misdemeanor. ~~On conviction thereof, such person shall be fined not less than fifty dollars nor more than one hundred dollars.~~ The secretary of agriculture may revoke the license of any person so convicted.

Sec. 222. Section two hundred one point fourteen (201.14), Code 1975, is amended to read as follows:

201.14 MISDEMEANOR. Any person who shall obstruct the secretary of agriculture or his agents or representatives when in the discharge of any duty or duties prescribed by this chapter shall be deemed to be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for the first offense, and for each subsequent offense by a fine of not less than fifty dollars nor more than thirty days in jail, or by both such fine and imprisonment.~~

Sec. 223. Section two hundred three A point five (203A.5), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and shall on conviction thereof be subject to imprisonment for not more than six months in the county jail or a fine of not more than five hundred dollars, or both such imprisonment and fine;~~ but if the violation is committed after a conviction of such person under this section has become final, such person shall be ~~subject to imprisonment for not more than one year in the county jail, or a fine of not more than one thousand dollars, or both such imprisonment and fine~~ guilty of an aggravated misdemeanor.

Sec. 224. Section two hundred four point four hundred one (204.401), subsection one (1), paragraphs a, b, c, and d, Code 1975, are amended to read as follows:

a. A substance classified in schedule I or II which is a narcotic drug, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed ten years and by a fine of not more than~~

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~~two-thousand-dollars~~ class "C" felony.

b. Any other controlled substance classified in schedules I, II, or III, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by-imprisonment-in-the-penitentiary for-not-to-exceed-five-years-and-by-a-fine-of-not-more-than one-thousand-dollars~~ class "D" felony.

c. A substance classified in schedule IV, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by imprisonment-in-the-county-jail-for-not-to-exceed-one-year or-by-a-fine-of-not-more-than-five-hundred-dollars,-or-by both-such-imprisonment-and-fine~~ serious misdemeanor.

d. A substance classified in schedule V, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by imprisonment-in-the-county-jail-for-not-to-exceed-six-months or-by-a-fine-of-not-more-than-two-hundred-fifty-dollars,-or both-such-imprisonment-and-fine~~ simple misdemeanor.

Sec. 225. Section two hundred four point four hundred one (204.401), subsection two (2), paragraphs a, b, c, and d, Code 1975, are amended to read as follows:

a. A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a ~~public-offense and-upon-conviction-shall-be-punished-by-imprisonment-in-the penitentiary-for-not-to-exceed-ten-years,-and-by-a-fine-of not-more-than-two-thousand-dollars~~ class "C" felony.

b. Any other counterfeit substance classified in schedules I, II, or III, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by-imprisonment-in-the-penitentiary for-not-to-exceed-five-years-and-by-a-fine-of-not-more-than one-thousand-dollars~~ class "D" felony.

c. A counterfeit substance classified in schedule IV, is guilty of a ~~public-offense-and-upon-conviction-shall-be punished-by-imprisonment-in-the-county-jail-for-not-to-exceed-one-year-or-by-a-fine-of-not-more-than-five-hundred-dollars,-or-by-both-such-imprisonment-and-fine~~ serious misdemeanor.

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d. A counterfeit substance classified in schedule V, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by-imprisonment-in-the-county-jail-for-not-to-exceed-six-months-or-by-a-fine-of-not-more-than-two-hundred-fifty-dollars,-or-by-both-such-imprisonment-and-fine~~ simple misdemeanor.

Sec. 226. Section two hundred four point four hundred two (204.402), subsection two (2), paragraphs a and b, Code 1975, are amended to read as follows:

a. Of a violation of paragraphs "a", "b", "d", or "e" shall be ~~punished-by-imprisonment-in-the-penitentiary-for-not-to-exceed-one-year-or-by-a-fine-of-not-more-than-one-thousand-dollars,-or-both-such-imprisonment-and-fine~~ an aggravated misdemeanor.

b. Of a violation of paragraph "c" shall be ~~punished-by-a-fine-of-not-more-than-five-hundred-dollars-if-the-conviction-is-the-defendant's-first-under-this-chapter-or-under-any-state-or-federal-statute-relating-to-narcotic-drugs,-marijuana,-or-stimulant,-depressant,-or-hallucinogenic-drugs,-and-by-imprisonment-in-the-penitentiary-for-not-to-exceed-one-year,-or-by-a-fine-of-not-more-than-one-thousand-dollars,-or-both-such-imprisonment-and-fine-if-the-defendant-has-previously-been-so-convicted~~ a serious misdemeanor.

Sec. 227. Section two hundred four point four hundred three (204.403), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who violates this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate this section, is guilty of a ~~public-offense-and-upon-conviction-shall-be-punished-by-imprisonment-in-the-penitentiary-for-not-to-exceed-one-year-and-by-a-fine-of-not-more-than-one-thousand-dollars~~ serious misdemeanor.

Sec. 228. Section two hundred four point four hundred six (204.406), Code 1975, is amended to read as follows:

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204.406 DISTRIBUTION TO PERSONS UNDER AGE EIGHTEEN. Any person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing a substance listed in schedule I or II, which is a narcotic drug, to a person under eighteen years of age, shall be ~~punished by a fine and by a term of imprisonment not to exceed twice that authorized by section 204.401, subsection 1, paragraph "a"~~ guilty of a class "B" felony, however the minimum time to be served before parole may be granted shall be five years. Any person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing any other controlled substance listed in schedules I, II, or III, ~~IV, or V~~ to a person under eighteen years of age who is at least three years his junior shall be ~~punished by a fine not to exceed that authorized by section 204.401, subsection 1, paragraph "b" or "c", or by a term of imprisonment not to exceed one and one-half times that authorized by section 204.401, subsection 1, paragraph "b" or "c", or by both such fine and imprisonment~~ guilty of a class "C" felony. Any person who is eighteen years of age or over who violates section two hundred four point four hundred one (204.401), subsection one (1) of the Code by distributing any controlled substance listed in schedules four (IV) and five (V) to a person under eighteen years of age who is at least three years his junior shall be guilty of an aggravated misdemeanor.

Sec. 229. Section two hundred four point four hundred seven (204.407), unnumbered paragraphs three (3) and four (4), Code 1975, are amended to read as follows:

Any person who violates this section and where the controlled substance is any one other than marijuana is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed five years or by a fine of not to exceed ten thousand dollars or by both such imprisonment and fine~~ class "D" felony.

Any person who violates this section, and where the controlled substance is marijuana only, is guilty of a ~~public~~

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~~offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year or by a fine of not to exceed one thousand dollars or by both such fine and imprisonment~~ serious misdemeanor.

Sec. 230. Section two hundred four point five hundred five (204.505), subsection four (4), Code 1975, is amended by striking the subsection and inserting in lieu thereof the following:

4. Property taken, detained, or forfeited under this chapter shall be delivered to a magistrate having jurisdiction. The magistrate, upon delivery being made to him, shall docket the proceeding and fix a day and hour for hearing which shall not be more than ten nor less than three days after delivery. Written notice of the time and place of hearing shall be personally served upon the person from whom the articles or things were taken. Notice shall be so served at least two full days prior to said hearing.

At the hearing the magistrate must proceed to take testimony in relation to the property seized and any person claiming an interest in the property, or in any part thereof, may appear and show specific and legal cause why the same shall not be forfeited. The magistrate may order the property lawfully seized to be confiscated and destroyed, or placed at the disposal of the department which may either use or sell the same, depositing the proceeds of such sale in the general fund.

However, controlled substances taken, detained, or forfeited shall be disposed of as provided by section two hundred four point five hundred six (204.506) of the Code. Such property shall not be subject to replevin.

Sec. 231. Section two hundred five point ten (205.10), Code 1975, is amended to read as follows:

205.10 FALSE REPRESENTATIONS. Any person who obtains any poison enumerated in section 205.5 under a false name or statement shall be guilty of a ~~misdemeanor and punished~~

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~~as-provided-in-chapter-189~~ fraudulent practice.

Sec. 232. Section two hundred six point twenty-two (206.22), Code 1975, is amended to read as follows:

206.22 PENALTIES.

1. Any person violating section 206.11, subsection 1, paragraph "a", shall be guilty of a simple misdemeanor ~~and upon-conviction-shall-be-fined-not-more-than-one-hundred dollars~~.

2. Any person violating any provision of this chapter other than section 206.11, subsection 1, paragraph "a", shall be guilty of a serious misdemeanor ~~and-upon-conviction-shall be-fined-not-more-than-five-hundred-dollars-for-the-first offense-and-upon-conviction-for-a-subsequent-offense-shall be-fined-not-more-than-one-thousand-dollars~~; provided, that any offense committed more than five years after a previous conviction shall be considered a first offense; and provided, further, that in any case where a registrant was issued a warning by the secretary pursuant to the provisions of this chapter, such registrant shall upon conviction of a violation of any provision of this chapter other than section 206.11, subsection 1, paragraph "a", be ~~fined-not-more-than one-thousand-dollars,-or-imprisoned-for-not-more-than-one year,-or-be-subject-to-both-such-fine-and-imprisonment~~ guilty of a serious misdemeanor; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article, the registration of which has been terminated, may not again be registered unless the article, its labeling, and other material required to be submitted appear to the secretary to comply with all the requirements of this chapter.

3. Notwithstanding any other provisions of the section, in case any person, with intent to defraud, uses or reveals information relative to formulae of products acquired under authority of section 206.12, he shall be ~~fined-not-more-than one-thousand-dollars-or-imprisoned-for-not-more-than-one-year,~~

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~~or both~~ guilty of a serious misdemeanor.

Sec. 233. Section two hundred eight A point eleven (208A.11), Code 1975, is amended to read as follows:

208A.11 PENALTY. If any person, partnership, corporation, or association shall violate the provisions of this chapter, such person, partnership, corporation or association shall be deemed guilty of a simple misdemeanor and, upon conviction thereof, ~~shall be punished according to the general provisions of title X and~~ the department may after due hearing cancel registration.

Sec. 234. Section two hundred ten point twenty-one (210.21), Code 1975, is amended to read as follows:

210.21 VIOLATIONS. It shall be unlawful for any person to manufacture, procure, or keep for the purpose of sale, offer or expose for sale, or sell bread in the form of loaves which are not of one of the weights specified in section 210.19 or violate the rules of the secretary of agriculture pertaining thereto. Any person who, by himself or by his servant, or agent, or as the servant or agent of another, shall violate any of the provisions of sections 210.19 to 210.25, shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars upon conviction in any court of competent jurisdiction, or by imprisonment for not more than thirty days, in the discretion of the court.~~

Sec. 235. Section two hundred eleven point two (211.2), Code 1975, is amended to read as follows:

211.2 VIOLATIONS. Any person or corporation failing to keep such record or refusing to offer the same for inspection when requested at a reasonable time by the peace officer, shall be guilty of a simple misdemeanor ~~and punished by a fine not exceeding one hundred dollars.~~

Sec. 236. Section two hundred fourteen point eight (214.8), Code 1975, is amended to read as follows:

214.8 PENALTY. Any weighmaster violating any of the pro-

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visions of sections 214.6 and 214.7, shall be guilty of a simple misdemeanor, ~~and punished as provided in chapter 189~~ and be liable to the person injured for all damages sustained.

Sec. 237. Section two hundred fourteen A point eleven (214A.11), Code 1975, is amended to read as follows:

214A.11 VIOLATIONS. Any person violating the provisions of this chapter shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of not to exceed one hundred dollars or imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 238. Section two hundred fifteen point twenty (215.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating any provision of this section is guilty of a simple misdemeanor ~~and, upon conviction shall be punished as provided by law~~.

Sec. 239. Section two hundred fifteen A point ten (215A.10), Code 1975, is amended to read as follows:

215A.10 PENALTY. Every person who uses or causes to be used a moisture-measuring device in commerce with knowledge that such device has not been inspected and approved by the department in accordance with the provisions of this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period not to exceed thirty days or both such fine and imprisonment~~.

Sec. 240. Section two hundred sixteen point two (216.2), Code 1975, is amended to read as follows:

216.2 PENALTY--EFFECTIVENESS OF ACT. A person knowingly having in his possession for the purpose of sale or offering for sale any prison-made goods, wares or merchandise manufactured in any state without the brand, mark or label required by law, or who removes or defaces such brand, mark or label shall be deemed guilty of a simple misdemeanor, ~~and upon conviction thereof shall be punished by a fine of not less~~

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~~than one hundred dollars nor more than five hundred dollars.~~ Provided, however, that the provision of this chapter shall not be effective unless and until the Hawes-Cooper Act becomes effective.

Sec. 241. Section two hundred seventeen point fourteen (217.14), subsection seven (7), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

The commissioner of social services may establish for any inmate sentenced pursuant to ~~section 789.13~~ chapter three (3), section two hundred two (202) of this Act a furlough program under which inmates sentenced to and confined in an institution under the jurisdiction of the department of social services may be temporarily released. Furloughs for a period not to exceed fourteen days may be granted when an immediate member of the 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 the inmate to participate in programs or activities that serve rehabilitative objectives. The commissioner of social services shall promulgate rules and regulations to carry out the provisions of this paragraph.

Sec. 242. Section two hundred eighteen point ninety-one (218.91), Code 1975, is amended to read as follows:

218.91 BOYS TRANSFERRED FROM TRAINING SCHOOL TO REFORMATORY. The director of the division of child and family services with the consent and approval of the director of the division of corrections of the department of social services may order the transfer of inmates of the training school for boys to the men's reformatory for custodial care whenever it is determined that such action will be conducive to the welfare of the other inmates of the school. Such transfer shall be effected by application in writing to the district court, or any judge thereof, of the county in which the said

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training school is situated. Upon the granting of the order of transfer, the transfer shall take place. The county attorney of the said county shall appear in support of such application. The cost of the transfer shall be paid from the funds of the training school for boys. Subsequent to a transfer made under this section, the person transferred shall be subject to all the provisions of law and regulations of the institution to which he is transferred, and for the purposes of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act such person shall be regarded as having been committed to the institution.

Sec. 243. Section two hundred twenty-two point forty-seven (222.47), Code 1975, is amended to read as follows:

222.47 PENALTY FOR FALSE PETITION OF COMMITMENT. Any person who shall maliciously seek to have any person adjudged mentally retarded, knowing that such person is not mentally retarded, shall be ~~fined not exceeding one thousand dollars or imprisoned not exceeding one year in the county jail~~ guilty of a fraudulent practice.

Sec. 244. Section two hundred twenty-three point four (223.4), subsection two (2), Code 1975, is amended to read as follows:

2. Commitments by the courts as mentally incompetent to stand trial under chapter ~~783~~ two (2), section one thousand two hundred nine (1209) of this Act.

Sec. 245. Section two hundred twenty-four A point six (224A.6), Code 1975, is amended to read as follows:

224A.6 PENALTIES. Any person who violates any provision of this chapter shall~~, upon conviction,~~ be ~~fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 246. Section two hundred twenty-nine point thirty-eight (229.38), Code 1975, is amended to read as follows:

229.38 CRUELTY OR OFFICIAL MISCONDUCT. If any person having the care of a mentally ill person, and restraining

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him, whether in a hospital or elsewhere, with or without authority, shall treat him with unnecessary severity, harshness, or cruelty, or in any way abuse him, or if any officer required by the provisions of this and chapters 226 to 228, inclusive, to perform any act shall willfully refuse or neglect to perform the same, he shall, unless otherwise provided, be ~~fined not to exceed five hundred dollars, or be imprisoned in the county jail not to exceed three months, and pay the costs of prosecution, or be both fined and imprisoned at the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 247. Section two hundred twenty-nine point thirty-nine (229.39), Code 1975, is amended to read as follows:

229.39 FAILURE TO FURNISH WRITING MATERIAL. If any member of the visiting committee, superintendent of the hospital, or other person in charge of a mentally ill person confined in the hospital, shall knowingly and willfully violate any provision of this and chapters 226 to 228, inclusive, by failing and refusing to furnish material for writing, failing or refusing to allow a party to write letters, to mail letters written, to receive and deliver letters written as provided herein to such person so confined, or in any other way, he shall be guilty of a simple misdemeanor.

Sec. 248. Section two hundred thirty-five A point nine (235A.9), subsection one (1), Code 1975, is amended to read as follows:

1. Any person, official, agency or institution, required by this chapter to report a suspected case of child abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars or be imprisoned in the county jail not more than ten days~~.

Sec. 249. Section two hundred thirty-five A point twenty-one (235A.21), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who willfully requests, obtains, or seeks

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to obtain child abuse information under false pretenses, or who willfully communicates or seeks to communicate child abuse information to any agency or person except in accordance with sections 235A.15 and 235A.17, or any person connected with any research authorized pursuant to section 235A.15 who willfully falsifies child abuse information or any records relating thereto, is guilty of a ~~criminal offense and upon conviction for each such offense be punished by a fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than two years, or by both such fine and imprisonment~~ serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate child abuse information except in accordance with sections 235A.15 and 235A.17 shall ~~for each such offense be fined not more than one hundred dollars or be imprisoned not more than ten days~~ be guilty of a simple misdemeanor.

Sec. 250. Section two hundred thirty-six point thirty-four (236.34), Code 1975, is amended to read as follows:

236.34 PENALTY. Every person who violates any of the provisions of this chapter or who shall intentionally make any false statements or reports to the state commissioner with reference to the matters contained herein, shall be guilty of a ~~misdemeanor and upon conviction shall be fined not to exceed three hundred dollars or imprisoned for a term not to exceed one year~~ fraudulent practice.

Sec. 251. Section two hundred thirty-eight point forty-five (238.45), Code 1975, is amended to read as follows:

238.45 PENALTY. Every person who violates any of the provisions of this chapter or who intentionally shall make any false statements or reports to the state director with reference to the matters contained herein, shall be guilty of a ~~misdemeanor and upon conviction shall be punished accordingly~~ fraudulent practice.

Sec. 252. Section two hundred thirty-nine point fourteen

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(239.14), Code 1975, is amended to read as follows:

239.14 FRAUDULENT ACTS. Whoever obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, or by impersonation, or any fraudulent device, any assistance under this chapter to which the recipient is not entitled, shall be guilty of a ~~misdemeanor, and, upon conviction thereof, shall be punishable by fine, not exceeding five hundred dollars or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment~~ fraudulent practice.

Sec. 253. Section two hundred forty-five point eleven (245.11), Code 1975, is amended to read as follows:

245.11 EFFECT OF TRANSFER. After a transfer to either institution is made, under section 245.10, the person transferred shall be subject to all the provisions of law and regulations of the institution to which she is transferred, and for the purposes of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act, a person transferred from the training school for girls to the women's reformatory shall be regarded as having been committed thereto.

Sec. 254. Section two hundred forty-nine point eleven (249.11), Code 1975, is amended to read as follows:

249.11 FRAUD. Any person who obtains assistance under this chapter by misrepresentation or by failure with fraudulent intent to bring forth all of the facts required of an applicant for assistance under this chapter, or any person who shall knowingly make false statements concerning an applicant's eligibility for assistance under this chapter, is guilty of a simple misdemeanor.

Sec. 255. Section two hundred fifty point ten (250.10), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be unlawful for any person, body, association, firm, corporation or any other agency to solicit, disclose,

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receive, make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists, names or other information obtained from the reports above provided for, for commercial or political purposes, and a violation of this provision shall constitute a serious misdemeanor ~~punishable by a fine of not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment~~.

Sec. 256. Section two hundred sixty-two point sixty-eight (262.68), Code 1975, is amended to read as follows:

262.68 SPEED LIMIT ON INSTITUTIONAL GROUNDS. The maximum speed limit of all vehicles on institutional roads at institutions under the control of the state board of regents shall be forty-five miles per hour. All driving shall be confined to driveways designated by the state board. Whenever the state board shall determine that the speed limit hereinbefore set forth is greater than is reasonable or safe under the conditions found to exist at any place of congestion or upon any part of its institutional roads, said board shall determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at such places of congestion or other parts of its institutional roads. Any person violating the aforementioned speed limits shall~~, upon conviction,~~ be ~~fined not to exceed one hundred dollars, or be imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 257. Section two hundred sixty-four point six (264.6), Code 1975, is amended to read as follows:

264.6 PENALTY. The members of the board of trustees and the officers of an institution of higher learning who do not file, in accordance with the provisions of this chapter, the record of grades in the office of the registrar of the state university within twelve months after the said institution has been closed or has ceased to function as an educational

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institution, ~~may~~ shall be ~~fined an amount not to exceed five hundred dollars~~ guilty of a simple misdemeanor.

Sec. 258. Section two hundred eighty-five point fourteen (285.14), Code 1975, is amended to read as follows:

285.14 NONSTANDARD BUSES--PENALTIES. Any person who operates or permits to be operated as a school bus to transport pupils, any vehicle which does not comply with the requirements provided by law or by the rules and regulations of the state department of public instruction, or for which there is not a valid temporary certificate for operation, shall be ~~punished by a fine of not do exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 259. Section two hundred eighty-five point fifteen (285.15), Code 1975, is amended to read as follows:

285.15 FORFEITURE OF REIMBURSEMENT RIGHTS. The failure of any local district to comply with the provisions of this chapter or any other laws relating to the transportation of pupils, or any rules made by the state department of public instruction under this chapter or the final decisions of the area education agency board, or the final decisions of the state department of public instruction shall during the period such failure to comply existed forfeit the rights to collect transportation costs from school or parents while operating in such illegal manner. Any superintendent, board, or board member who knowingly operates or permits to be operated any school bus transporting public school pupils in violation of any school transportation law shall be deemed guilty of a simple misdemeanor.

Sec. 260. Section two hundred eighty-seven point four (287.4), Code 1975, is amended to read as follows:

287.4 "RUSHING" PROHIBITED. No person shall go upon school grounds or enter any school building for the purpose of "rushing" or soliciting, while there, any pupil of such school to join any fraternity, society, or organization out-

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side of said school. Persons violating the provisions of this section shall be ~~fined not less than two dollars nor more than ten dollars, and on failure to pay such fine shall be imprisoned in the county jail for not more than ten days. Fines collected shall be paid to the county treasurer, and be by him added to the school fund of the district in which the offense was committed~~ guilty of a simple misdemeanor.

Sec. 261. Section two hundred eighty-nine point six (289.6), Code 1975, is amended to read as follows:

289.6 VIOLATIONS. When such part-time school shall have been established, any parent or person in charge of such minor as defined in this chapter who shall violate the provisions of this chapter, shall be ~~punished by a fine of not less than ten dollars nor more than fifty dollars~~ guilty of a simple misdemeanor, or any person unlawfully employing any such minor shall be ~~punished by a fine of not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 262. Section two hundred ninety-seven point fourteen (297.14), Code 1975, is amended to read as follows:

297.14 BARBED WIRE. No fence provided for in section 297.13 shall be constructed of barbed wire, nor shall any barbed wire fence be placed within ten feet of any school grounds. Any person violating the provisions of this section shall be ~~punished by a fine not exceeding twenty-five dollars~~ guilty of a simple misdemeanor.

Sec. 263. Section two hundred ninety-nine point six (299.6), Code 1975, is amended to read as follows:

299.6 VIOLATIONS. Any person who shall violate any of the provisions of sections 299.1 to 299.5, inclusive, shall be ~~fined not less than five dollars nor more than twenty dollars for each offense~~ guilty of a simple misdemeanor.

Sec. 264. Section three hundred one point twenty-eight (301.28), Code 1975, is amended to read as follows:

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301.28 OFFICERS AND TEACHERS AS AGENTS FOR BOOKS AND SUPPLIES. It shall be unlawful for any school director, officer, area education director or teacher to act as agent for any school textbooks or school supplies during such term of office or employment, and any school director, officer, area education director or teacher, who shall act as agent or dealer in school textbooks or school supplies, during the term of such office or employment, shall be deemed guilty of a serious misdemeanor~~, and shall, upon conviction thereof, be fined not less than ten dollars nor more than one hundred dollars, and pay the costs of prosecution~~.

Sec. 265. Section three hundred six B point six (306B.6), Code 1975, is amended to read as follows:

306B.6 MISDEMEANOR. Whoever erects or maintains an advertising device in violation of this chapter or in violation of rules and regulations promulgated by the department under this chapter shall be guilty of a simple misdemeanor ~~and upon conviction be fined not less than twenty-five dollars nor more than one hundred dollars~~.

Sec. 266. Section three hundred nine point sixty-six (309.66), Code 1975, is amended to read as follows:

309.66 USE OF GRAVEL BEDS. The board of supervisors may permit private parties or municipal corporations to take materials from such acquired lands in order to improve any street or highway in the county, but it shall be a serious misdemeanor for any person to use or for the board of supervisors to dispose of any such material for any purpose other than for the improvement of such streets or highways.

Sec. 267. Section three hundred thirteen A point thirty-seven (313A.37), Code 1975, is amended to read as follows:

313A.37 FAILURE TO PAY TOLL--PENALTY. Any person who uses any toll bridge and fails or refuses to pay the toll provided therefor shall be ~~punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both~~ guilty of a simple misdemeanor.

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Sec. 268. Section three hundred seventeen point twenty-four (317.24), Code 1975, is amended to read as follows:

317.24 PUNISHMENT OF OFFICER. Any officer referred to in this chapter who neglects or fails to perform the duties incumbent upon him under the provisions of this chapter shall be ~~punished by a fine not exceeding one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 269. Section three hundred twenty point eight (320.8), Code 1975, is amended to read as follows:

320.8 PENALTY. Failure to comply with any of the conditions of said grant, whether made such by statute or by agreement, or the laying of any such mains, or the constructing of any such cattleways, without having secured the grant of permission as provided by law shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars~~ deemed a simple misdemeanor. It shall be the duty of the state department of transportation and of the board of supervisors, as regards the highways under their respective jurisdictions, to enforce the provisions of this section and the laws relating thereto.

Sec. 270. Section three hundred twenty-one point one (321.1), subsection forty-five (45), Code 1975, is amended to read as follows:

45. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations in addition to its meaning in ~~section 748.3~~ chapter two (2), section one hundred four (104), subsection seven (7) of this Act.

Sec. 271. Section three hundred twenty-one point seventy-eight (321.78), Code 1975, is amended to read as follows:

321.78 INJURING OR TAMPERING WITH VEHICLE. Any person who either individually or in association with one or more other persons willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a simple mis-

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demeanor ~~punishable as provided in section 321.482~~.

Sec. 272. Section three hundred twenty-one point seventy-nine (321.79), Code 1975, is amended to read as follows:

321.79 INTENT TO INJURE. Any person who with intent to commit any malicious mischief, injury, or other crime climbs into or upon a vehicle whether it is in motion or at rest or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle while the same is at rest and unattended is guilty of a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 273. Section three hundred twenty-one point ninety-one (321.91), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who abandons a motor vehicle shall be guilty of a simple misdemeanor.

Sec. 274. Section three hundred twenty-one point ninety-seven (321.97), Code 1975, is amended to read as follows:

321.97 FRAUDULENT APPLICATIONS. Any person who fraudulently uses a false or fictitious name in any application for the registration of, or certificate of title to, a vehicle or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a ~~fraud in any such application, shall upon conviction be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year or both~~ fraudulent practice.

Sec. 275. Section three hundred twenty-one point ninety-eight (321.98), Code 1975, is amended to read as follows:

321.98 OPERATION WITHOUT REGISTRATION. No person shall operate, nor shall an owner knowingly permit to be operated upon any highway any vehicle required to be registered and titled hereunder unless there shall be attached thereto and displayed thereon when and as required by this chapter a valid registration card and registration plate or plates issued

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therefor for the current registration year and unless a certificate of title has been issued for such vehicle except as otherwise expressly permitted in this chapter. Any violation of this section is a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 276. Section three hundred twenty-one point ninety-nine (321.99), Code 1975, is amended to read as follows:

321.99 IMPROPER USE OF REGISTRATION. No person shall lend to another any registration card, registration plate, special plate, or permit issued to him if the person desiring to borrow the same would not be entitled to the use thereof, nor shall any person knowingly permit the use of any of the same by one not entitled thereto, nor shall any person display upon a vehicle any registration card, registration plate or permit not issued for such vehicle or not otherwise lawfully used thereon under this chapter. Any violation of this section is a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 277. Section three hundred twenty-one point one hundred (321.100), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

It is a ~~felony, punishable as provided in section 321.483,~~ fraudulent practice for any person to commit any of the following acts:

Sec. 278. Section three hundred twenty-one point two hundred sixteen (321.216), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

It is a simple misdemeanor~~, punishable as provided in section 321.482 unless another punishment is otherwise provided,~~ for any person:

Sec. 279. Section three hundred twenty-one point two hundred seventeen (321.217), Code 1975, is amended to read as follows:

321.217 PERJURY. Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter

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or thing required by the terms of this chapter to be sworn to or affirmed, is guilty of ~~perjury and upon conviction shall be punishable by fine or imprisonment as other persons committing perjury are punishable~~ a class "D" felony.

Sec. 280. Section three hundred twenty-one point two hundred eighteen (321.218), Code 1975, is amended to read as follows:

321.218 DRIVING WHILE LICENSE DENIED, SUSPENDED OR REVOKED. Any person whose operator's or chauffeur's license or driving privilege, has been denied, canceled, suspended or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while such license or privilege is denied, canceled, suspended, or revoked, is guilty of a simple misdemeanor ~~and upon conviction shall be punished by imprisonment for not less than two days or more than thirty days~~. The sentence imposed under this section shall not be suspended by the court, notwithstanding the provisions of section 789A.1 or any other provision of statute. The department, upon receiving the record of the conviction of any person under this section upon a charge of driving a motor vehicle while the license of such person was suspended or revoked, shall extend the period of suspension or revocation for an additional like period, and the department shall not issue a new license during such additional period.

Sec. 281. Section three hundred twenty-one point two hundred seventy-seven (321.277), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Every person convicted of reckless driving shall be ~~punished upon a conviction by imprisonment for a period of not more than thirty days, or by fine of not less than twenty-five dollars, nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 282. Section three hundred twenty-one point two hundred seventy-eight (321.278), unnumbered paragraph two (2),

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Code 1975, is amended to read as follows:

Any person who violates the provisions of this section shall be guilty of ~~drag-racing-and-upon-conviction-shall-be punished-by-a-fine-of-not-more-than-one-hundred-dollars-or by-imprisonment-in-the-county-jail-for-not-more-than-thirty days~~ a simple misdemeanor.

Sec. 283. Section three hundred twenty-one point two hundred eighty-one (321.281), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever operates a motor vehicle upon the public highways of this state while under the influence of an alcoholic beverage, a narcotic, hypnotic or other drug, or any combination of such substances shall, upon conviction or a plea of guilty, ~~be-punished~~ be guilty of a serious misdemeanor for the first offense ~~by-a-fine-of-not-less-than-three-hundred-dollars-nor more-than-one-thousand-dollars,-or-by-imprisonment-in-the county-jail-for-a-period-of-not-to-exceed-one-year,-or-by both-such-fine-and-imprisonment;~~ be guilty of an aggravated misdemeanor for the second offense ~~by-a-fine-of-not-less-than five-hundred-dollars,-nor-more-than-one-thousand-dollars, or-by-imprisonment-in-the-penitentiary-for-a-period-of-not to-exceed-one-year,-or-by-both-such-fine-and-imprisonment;~~ and be guilty of a class "D" felony for a third offense and each offense thereafter ~~by-imprisonment-in-the-penitentiary for-any-term-of-years-not-less-than-one-or-more-than-five, and-the-court-may-pronounce-sentence-for-a-lesser-period-than the-maximum,-the-provisions-of-the-indeterminate-sentence law-to-the-contrary-notwithstanding.~~

Sec. 284. Section three hundred twenty-one point two hundred eighty-two (321.282), Code 1975, is amended to read as follows:

321.282 VIOLATIONS. If any person who has been convicted or pleaded guilty to driving or operating a motor vehicle upon the public highways of this state while in an intoxicated condition is found driving or operating any motor vehicle

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in violation of the provisions of sections 321.174 and 321.209 he shall~~, without regard to any other punishment provided by law,~~ be ~~imprisoned in the county jail for a period of not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 285. Section three hundred twenty-one point two hundred eighty-three (321.283), subsection fourteen (14), Code 1975, is amended to read as follows:

14. PENALTY. Any person violating a restriction or a temporary driving permit issued under subsection 6 shall be guilty of a simple misdemeanor.

Sec. 286. Section three hundred twenty-one point four hundred seventy-six (321.476), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person who prevents or in any manner obstructs an officer attempting to carry out the provisions of this section is guilty of a simple misdemeanor ~~and shall be punished as provided in section 321.482~~.

Sec. 287. Section three hundred twenty-one point four hundred eighty-two (321.482), Code 1975, is amended to read as follows:

321.482 PENALTIES FOR MISDEMEANOR. It is a simple misdemeanor for any person to do any act forbidden or to fail to perform any act required by any of the provisions of this chapter unless any such violation is by this chapter or other law of this state declared to be a felony. Chapter 232 shall have no application in the prosecution of offenses committed in violation of this chapter which are ~~punishable by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days~~ simple misdemeanor.

~~Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.~~

Sec. 288. Section three hundred twenty-one point four

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hundred eighty-three (321.483), Code 1975, is amended to read as follows:

321.483 PENALTY FOR FELONY. Any person who is convicted of a violation of any of the provisions of this chapter herein declared to constitute a felony, and for which another punishment is not otherwise provided, shall be ~~punished by imprisonment for a term of not more than five years, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or by both such fine and imprisonment~~ guilty of a class "D" felony.

Sec. 289. Section three hundred twenty-one A point thirty-two (321A.32), Code 1975, is amended to read as follows:

321A.32 OTHER VIOLATIONS--PENALTIES.

1. Any person whose license or registration or nonresident's operating privilege has been suspended, denied or revoked under this chapter or continues to remain suspended or revoked under this chapter, and who, during such suspension, denial or revocation, or during such continuing suspension or continuing revocation, drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this chapter, shall be ~~fined not more than five hundred dollars or imprisoned not exceeding six months, or both~~ guilty of a serious misdemeanor.

2. Any person willfully failing to return license or registration as required in section 321A.31 shall be ~~fined not more than five hundred dollars or imprisoned not to exceed thirty days, or both~~ guilty of a serious misdemeanor.

3. Any person who shall forge or, without authority, sign any notice provided for under section 321A.5 that a policy or bond is in effect, or any evidence of proof of financial responsibility, or who files or offers for filing any such notice or evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be ~~fined not more than one thousand dollars or imprisoned~~

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~~not-more-than-one-year,-or-both~~ guilty of a serious misdemeanor.

4. Any person who shall violate any provision of this chapter for which no penalty is otherwise provided shall be ~~fined-not-more-than-five-hundred-dollars-or-imprisoned-not more-than-ninety-days,-or-both~~ guilty of a serious misdemeanor.

Sec. 290. Section three hundred twenty-one B point fifteen (321B.15), Code 1975, is amended to read as follows:

321B.15 DRIVING WHILE LICENSE DENIED OR REVOKED. Any person whose license, or driving privilege, has been denied or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while such license or privilege is denied or revoked, is guilty of a simple misdemeanor and upon conviction shall be punished as provided for simple misdemeanors in section 321.482. The department, upon receiving the record of the conviction of any person under this section upon a charge of driving a motor vehicle while the license of such person was revoked, shall extend the period of revocation for an additional like period, and the department shall not issue a new license during such additional period.

Sec. 291. Section three hundred twenty-one F point twelve (321F.12), Code 1975, is amended to read as follows:

321F.12 PENALTY. Any person violating any provision of this chapter shall be guilty of a simple misdemeanor.

Sec. 292. Section three hundred twenty-one G point fourteen (321G.14), Code 1975, is amended to read as follows:

321G.14 PENALTY. Any person who shall violate any provision of this chapter or any regulation of the commission or director of transportation shall be guilty of a simple misdemeanor ~~and-punished-by-a-fine-of-not-more-than-one-hundred dollars,-or-by-imprisonment-for-not-more-than-thirty-days~~.

Chapter 232 shall have no application in the prosecution of offenses which are committed in violation of this chapter, and which ~~are-punishable-by-a-fine-of-not-more-than-one-hun-~~

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~~dred-dollars-or-by-imprisonment-for-not-more-than-thirty-days~~ constitute simple misdemeanors.

Sec. 293. Section three hundred twenty-two point fourteen (322.14), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person violating any of the provisions of this chapter where a penalty is not specifically provided for shall be deemed guilty of a simple misdemeanor ~~and-upon-conviction thereof-shall-be-punished-by-a-fine-not-exceeding-one-hundred dollars-or-thirty-days-in-jail.~~

Sec. 294. Section three hundred twenty-three point nine (323.9), Code 1975, is amended to read as follows:

323.9 VIOLATIONS. Any person violating the provisions of this chapter is guilty of a simple misdemeanor ~~and-shall be-punished-by-a-fine-not-to-exceed-one-hundred-dollars-or imprisonment-in-the-county-jail-for-a-period-of-not-to-exceed thirty-days.~~

Sec. 295. Section three hundred twenty-four point fourteen (324.14), Code 1975, is amended to read as follows:

324.14 PENALTY FOR OPERATING UNREGISTERED TRANSPORT. It shall be unlawful for any person to transport motor fuel in bulk upon the highways of this state in a conveyance the registration of which is required without the evidence of registration provided for and any person found guilty of the unlawful act shall be ~~fined-not-to-exceed-one-hundred-dollars or-imprisoned-in-the-county-jail-not-more-than-thirty-days~~ guilty of a simple misdemeanor, and each cargo so transported shall be considered a separate offense. This penalty shall be in addition to penalties imposed under other provisions of this chapter. Persons transporting motor fuel in bulk upon the highways of this state in an amount of not to exceed four thousand gallons shall not be regarded as transporting in bulk.

Sec. 296. Section three hundred twenty-four point twenty (324.20), Code 1975, is amended to read as follows:

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324.20 POSTING PRICE AND DISCOUNTS. Every distributor and other person selling motor fuel in this state for resale to dealers in this state, shall keep posted in a conspicuous place most accessible to the public at their place or places of business, including bulk plants, a placard showing in legible words and figures the same height and size, the price per gallon of each grade of motor fuel offered for sale, the amount of state excise tax per gallon thereon, the federal excise tax per gallon thereon, and the total thereof. If any rebate, discount, commission, or other concession is granted by distributors or persons engaged in the sale of motor fuel for resale to dealers of such nature as will reduce the cost or price to any purchaser or dealer in such products, the conditions, quantity, and amount of such rebate, discount, commission or other concession shall be posted as a part of the posted price. All price placards shall be subject to the approval of the department of revenue. Any distributor or person failing to post or keep posted the placard required by this section, or who posts placards not approved by the department of revenue as provided in this section, or who sells any motor fuel for resale at a price which directly or indirectly, by any means or device, deviates from the posted price set forth on the price placard approved by the department of revenue, shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of one hundred dollars or imprisonment in the county jail for thirty days~~. Nothing contained herein shall prohibit or restrict the distribution of earnings to the members of any distributor or person, nor to the distribution to consumers of road maps, publicity and other advertising media carrying the name of the distributor, person, or produce. Each day the required placard remains unposted or an unauthorized placard remains posted, or each deviation from the posted price, shall be considered a separate offense. In the event of a second conviction for the violation of any of the provisions of this section, the department of

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revenue may revoke the license of such distributor or person so convicted.

Sec. 297. Section three hundred twenty-four point fifty-two (324.52), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel in violation of the provisions of the preceding paragraph is guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars or shall be imprisoned in the county jail not more than thirty days~~.

Sec. 298. Section three hundred twenty-four point sixty-three (324.63), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating the provisions of this section, and disclosing the contents of any records or reports required to be kept or made under the provisions of this chapter, except as hereinabove provided, shall ~~upon conviction~~ be ~~fined not less than one hundred dollars nor more than one thousand dollars or be confined in the county jail not less than thirty days nor more than six months~~ guilty of a simple misdemeanor.

Sec. 299. Section three hundred twenty-four point seventy-three (324.73), Code 1975, is amended to read as follows:

324.73 EMBEZZLEMENT OF FUEL TAX MONEY--PENALTY. Every sale of motor fuel in this state and every sale of special fuel dispensed by the seller into a fuel supply tank of a motor vehicle shall, unless otherwise provided, be presumed to include as a part of the purchase price the fuel tax due the state of Iowa under the provisions of this chapter. Every person collecting fuel tax money as part of the selling price of motor fuel or special fuel, shall hold the tax money in trust for the state of Iowa unless the fuel tax on the fuel has been previously paid to the state of Iowa. Any person receiving fuel tax money in trust and failing to remit it

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to the department of revenue on or before time required shall be guilty of ~~embezzlement-of-public-funds-and-upon-conviction shall-be-subjected-to-the-penalty-provided-by-law-for-that offense~~ theft.

Sec. 300. Section three hundred twenty-four point seventy-five (324.75), Code 1975, is amended to read as follows:

324.75 PENALTY FOR FALSE CERTIFICATE. Any person who makes a false certificate, false fuel invoice, false fuel receipt, or false fuel sales ticket in any report, return, application, claim, or evidence required or provided for by this chapter or under any rule or regulation made by the department of revenue shall be ~~punished-by-imprisonment-in the-penitentiary-for-not-more-than-one-year,-or-by-imprisonment-in-the-county-jail-for-such-term-as-the-court-may-determine,-not-exceeding-six-months,-or-by-a-fine-of-not-more-than two-thousand-dollars,-or-by-such-combination-of-either-imprisonment-and-fine-as-the-court-may-determine~~ guilty of a fraudulent practice.

Sec. 301. Section three hundred twenty-five point thirty-four (325.34), Code 1975, is amended to read as follows:

325.34 MISDEMEANOR--PENALTY. Every owner, officer, agent, or employee of any motor carrier, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, or regulation, direction, demand, or requirement or any part or provision thereof, of the commission, or who procures, aids, or abets any corporation or person in his failure to obey, observe, or comply with any such order, decision, rule, direction, demand, or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and-upon-conviction-shall-be-punished-by-a-fine-not-exceeding one-hundred-dollars-or-by-imprisonment-in-the-county-jail for-a-period-of-not-to-exceed-thirty-days~~.

Sec. 302. Section three hundred twenty-five point thirty-

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five (325.35), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be a simple misdemeanor~~, punishable by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~, for any motor carrier to operate any motor vehicle for which the annual fee has not been paid and the board may revoke the certificate of convenience and necessity of any such violator.

Sec. 303. Section three hundred twenty-six point twenty-seven (326.27), Code 1975, is amended to read as follows:

326.27 VIOLATIONS TO NEGATE AGREEMENTS. Operation of a commercial vehicle or vehicles in violation of the requirements of this chapter, the motor vehicle registration laws of this state, or the terms of any agreement negotiated by the department pursuant to this chapter may, after due notice and hearing, be grounds for denial of reciprocal or proportional registration privileges on the vehicle or vehicles of an owner so operated. Any owner denied such reciprocal or proportional registration privileges shall be subject to payment of full annual Iowa registration fees on any such vehicle operated on Iowa highways. In addition to denial of reciprocal or proportional registration privileges, it shall be a simple misdemeanor~~, unless such act is declared under Iowa law to be a felony, punishable as provided in section 321.482 for any person to operate under reciprocity or proportional registration in violation of any requirements of this chapter~~.

Sec. 304. Section three hundred twenty-seven point nine (327.9), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be a simple misdemeanor for any truck operator or contract carrier to operate any motor truck for which the annual fee has not been paid and the board may revoke the truck operator or contract carrier permit of any such violator or both.

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Sec. 305. Section three hundred twenty-seven point twenty-two (327.22), Code 1975, is amended to read as follows:

327.22 VIOLATIONS--PUNISHMENT. Every owner, officer, agent, or employee of any truck operator, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, or regulation, direction, demand, or requirement or any part or provision thereof, of the commission, or the department, or who procures, aids, or abets any corporation or person in his failure to obey, observe, or comply with any such order, decision, rule, direction, demand, or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 306. Section three hundred twenty-seven A point eighteen (327A.18), Code 1975, is amended to read as follows:

327A.18 PENALTIES. Every owner, officer, agent or employee of any liquid transport carrier, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule or regulation, direction, demand, or requirement or any part or provision thereof of the board, or who procures, aids or abets any corporation or person in his failure to obey, observe, or comply with any such order, decision, rule, direction, demand or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 307. Section three hundred twenty-eight point forty (328.40), Code 1975, is amended to read as follows:

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328.40 PENALTIES. Any person who violates any of the provisions of this chapter, or who makes any material false statement or representation in any application or statement filed with the department as required by this chapter or any of the rules and regulations issued pursuant thereto shall be guilty of a ~~misdemeanor,-and-upon-conviction-thereof-shall be-punished-accordingly~~ fraudulent practice.

Sec. 308. Section three hundred twenty-eight point forty-one (328.41), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who operates an aircraft in a careless or reckless manner in violation of the provisions of this section shall be guilty of a simple misdemeanor ~~and-upon-conviction thereof-shall-be-punished-accordingly~~.

Sec. 309. Section three hundred twenty-nine point fourteen (329.14), Code 1975, is amended to read as follows:

329.14 ENFORCEMENT AND REMEDIES. Each violation of this chapter or of any regulations, order, or rules promulgated pursuant to this chapter, shall constitute a simple misdemeanor~~,-and-the-perpetrator-thereof,-upon-conviction,-shall be-punished-accordingly,~~ and each day a violation continues to exist shall constitute a separate offense.

Sec. 310. Section three hundred thirty-two point thirty (332.30), Code 1975, is amended to read as follows:

332.30 PENALTY. Any person who violates any of the provisions of sections 332.23 to 332.29 or who violates any of the terms or conditions under which he is permitted to engage in the business activity for which he was licensed, shall be ~~fined-a-sum-not-to-exceed-twenty-five-dollars~~ guilty of a simple misdemeanor.

Sec. 311. Section three hundred thirty-six A point seven (336A.7), Code 1975, is amended to read as follows:

336A.7 OTHER ATTORNEY APPOINTED. The court may, for cause, upon the application of the indigent person or the public defender, or on its own motion, appoint an attorney

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other than the public defender, to represent the indigent person at any state of the proceedings or on appeal. The attorney so appointed shall be compensated as provided in ~~section 775.5~~ chapter two (2), section one thousand five hundred seven (1507) of this Act.

Sec. 312. Section three hundred thirty-six B point two (336B.2), Code 1975, is amended to read as follows:

336B.2 FINANCIAL STATEMENT. Before an attorney is appointed under the provisions of sections 68.8, 145.17, 145.19, 222.22, 232.28, ~~775.4~~ or ~~777.12~~ rule eight (8), rules of criminal procedure, or to represent any person charged with a crime in this state, the court shall require the client, or his parent, guardian, or custodian to complete under oath a detailed financial statement.

Sec. 313. Section three hundred thirty-six B point five (336B.5), Code 1975, is amended to read as follows:

336B.5 FALSE STATEMENT--PENALTY. Any person that submits to a court or to a public defender a materially false financial statement, for the purpose of obtaining legal assistance at public expense, shall be guilty of a ~~misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days~~ fraudulent practice.

Sec. 314. Section three hundred thirty-nine point five (339.5), Code 1975, is amended to read as follows:

339.5 REPORTS BY OTHERS. Every person who knows of the existence of a body where death occurred in the manner specified in section 339.6, shall notify the county or state medical examiner or the city or state law enforcement agency or county sheriff thereof as soon as possible, unless such person shall have good reason to believe that such notice has already been given. Any person who shall fail to give such notice to a medical examiner shall be guilty of a ~~public offense, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or a sentence in the county~~

~~jail of not more than six months, or by both such fine and imprisonment~~ serious misdemeanor.

Sec. 315. Section three hundred thirty-nine point thirteen (339.13), unnumbered paragraph four (4), Code 1975, is amended to read as follows:

Any person violating any of the provisions of this section shall be deemed guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be fined not more than one thousand dollars or imprisoned in the county jail not more than one year, or by both such fine and imprisonment~~.

Sec. 316. Section three hundred forty-one A point twenty-one (341A.21), Code 1975, is amended to read as follows:

341A.21 INDICTABLE MISDEMEANOR. Any person who willfully violates any of the provisions of this chapter shall be guilty of a simple misdemeanor, ~~and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not longer than thirty days or punished by both such fine and imprisonment~~. The district court shall have jurisdiction of all such offenses.

Sec. 317. Section three hundred forty-three point nine (343.9), Code 1975, is amended to read as follows:

343.9 VIOLATIONS. Any officer of any county, or any deputy or employee of such officer, who violates any of the provisions of sections 343.7 and 343.8, shall be guilty of a simple misdemeanor, ~~and fined not less than one hundred dollars, nor more than five hundred dollars, for each offense~~.

Sec. 318. Section three hundred forty-four point ten (344.10), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any county official in charge of any department or office who violates this law shall be guilty of a simple misdemeanor ~~and punished accordingly~~.

Sec. 319. Section three hundred forty-six point twenty-two (346.22), Code 1975, is amended to read as follows:

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346.22 VIOLATIONS. Any officer of any county, or any deputy or employee of such officer, who violates any of the provisions of sections 346.20 and 346.21, shall be guilty of a simple misdemeanor~~,-and-fined-not-less-than-one-hundred dollars,-nor-more-than-five-hundred-dollars,-for-each-offense~~.

Sec. 320. Section three hundred fifty point seven (350.7), Code 1975, is amended to read as follows:

350.7 FALSE CLAIM. Any person who shall claim or attempt to procure any bounty provided for in this chapter upon any animal killed in another state or county, or upon any animal which has been domesticated, or who shall attempt to obtain any bounty by presenting any false claim or spurious exhibit, shall be ~~fined-not-more-than-one-hundred-dollars-nor-less than-fifty-dollars-for-each-offense~~ guilty of a fraudulent practice.

Sec. 321. Section three hundred fifty-one point forty-three (351.43), Code 1975, is amended to read as follows:

351.43 PENALTY. Any person refusing to comply with the provisions of sections 351.33 to 351.42 or violating any of their provisions, shall be deemed guilty of a simple misdemeanor ~~and-upon-conviction-shall-be-fined-not-more-than-one hundred-dollars-or-imprisoned-not-more-than-thirty-days,-for each-offense~~.

Sec. 322. Section three hundred fifty-one A point six (351A.6), Code 1975, is amended to read as follows:

351A.6 PENALTY. It shall be a simple misdemeanor for any person or corporation to violate any provision of this chapter. ~~Every-person-convicted-hereunder-shall-be-punished by-imprisonment-for-a-period-not-more-than-thirty-days,-or by-a-fine-not-to-exceed-one-hundred-dollars.~~ Any pound failing or refusing to comply with the provisions of this chapter shall become immediately ineligible for any public moneys notwithstanding the provisions of any contract, and it shall be unlawful for any public body to pay any public moneys to a pound after receipt by it of a notice of such noncompliance

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or refusal from any institution authorized by the state department of health to obtain dogs until such time as such institution shall have withdrawn its notice or the state department of health shall have notified such public body that such notice was without foundation.

Sec. 323. Section three hundred fifty-six point seven (356.7), Code 1975, is amended to read as follows:

356.7 CALENDAR RETURNED. On or before the fifteenth day of the months of January, April, July and October each year, the sheriff of each county must return a copy of such calendar to the district court of the district within which his county is situated. If a sheriff neglects or refuses to do so, he shall be ~~punished by a fine not exceeding one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 324. Section three hundred fifty-six point twenty-three (356.23), Code 1975, is amended to read as follows:

356.23 CRUEL TREATMENT. If any officer or other person treat any prisoner in a cruel or inhuman manner, he shall be ~~punished by fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding twelve months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 325. Section three hundred fifty-six point twenty-five (356.25), Code 1975, is amended to read as follows:

356.25 ANNOYANCE OF PRISONER. Any person persisting in insulting or annoying or communicating with any prisoner, after being commanded by such officer to desist, shall be ~~punished by a fine not exceeding ten dollars, or by imprisonment not exceeding three days~~ guilty of a simple misdemeanor.

Sec. 326. Section three hundred fifty-six A point three (356A.3), Code 1975, is amended to read as follows:

356A.3 ALTERNATIVE CONFINEMENT OF PRISONERS. Any municipal or district court judge may sentence and commit a person to a facility established and maintained pursuant to

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section 356A.1 or 356A.2 instead of the county jail. A district court judge may order the transfer of a person sentenced and committed to the county jail to such a facility upon his own motion, the motion of the sentenced and committed person, or the motion of the sheriff. The original order of commitment or the order of transfer to the facility shall set forth the terms and conditions of the dentention or commitment; that the detained or committed person shall abide by the terms and conditions of this chapter and the rules and regulations of the facility to which committed or transferred. The order shall be read to the detained, committed or transferred person in open court. The committing court or a district court judge may order any person who has been detained, committed, or transferred to such a facility to be transferred to the county jail if, upon hearing, the court determines such person has been refractory, disorderly, has willfully destroyed or injured any property in the facility, or has violated any of the terms and conditions of the order of detention, commitment, or transfer or the provisions of this chapter or the rules and regulations of the facility wherein he was detained or committed. Any violations of the order of detention, commitment, or transfer shall further be punished as contempt of court pursuant to chapter 665. The provisions of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act shall be applicable to any person detained, committed, or transferred to a facility established and maintained pursuant to this chapter. The county or city to which the cause originally belonged shall be liable for the expense of the original detention, commitment, or transfer and the subsequent expenses of maintaining such person in the facility. The county's expense shall be levied and paid out of the court expense fund pursuant to section 444.10.

Sec. 327. Section three hundred fifty-eight A point twenty-six (358A.26), Code 1975, is amended to read as follows:

358A.26 PENALTY. In addition to any other remedy granted

herein, the violation on any regulation, restriction or boundary adopted under this chapter or the occupancy or use of any structure erected, altered or maintained in violation of this chapter shall constitute a simple misdemeanor. Such occupancy or use shall be deemed a continuing violation and may be the subject to repeated prosecutions if so continued. ~~Every person convicted of a misdemeanor, by reason of violations hereinabove set forth, shall be punished by a fine of not more than one hundred dollars or by imprisonment of not more than thirty days.~~

Sec. 328. Section three hundred sixty-four point five (364.5), Code 1975, is amended to read as follows:

364.5 JOINT ACTION--LEAGUE OF MUNICIPALITIES. It is unlawful for the league of Iowa municipalities to provide any form of aid to a political party or to the campaign of a candidate for political or public office. Any person violating or being an accessory to a violation of this section is guilty of a simple misdemeanor.

Sec. 329. Section four hundred point thirty (400.30), Code 1975, is amended to read as follows:

400.30 PENALTY. The provisions of this chapter shall be strictly carried out by each person or body having powers or duties thereunder, and any act or failure to act tending to avoid or defeat the purposes of such provisions is hereby prohibited and shall be ~~punishable as~~ a simple misdemeanor.

Sec. 330. Section four hundred nine point fourteen (409.14), unnumbered paragraph seven (7), Code 1975, is amended to read as follows:

If any such plat of land is tendered for recording in the office of the county recorder or county auditor of any county in which any city of the above class may be situated, it shall be the duty of such county recorder and auditor to examine such plat, to ascertain whether the endorsement of approval by the city council, as herein provided for, shall appear thereon. If it shall, and the plat otherwise conforms to

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the provisions of law, said officers shall accept same for recording. If such endorsement does not appear thereon said officers shall refuse and decline to accept such plat, and any filing thereof shall be void. Any failure to observe the provisions of this section on the part of any county recorder or county auditor shall constitute a simple misdemeanor in office.

Sec. 331. Section four hundred eleven point fourteen (411.14), Code 1975, is amended to read as follows:

411.14 PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of such retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a ~~misdemeanor, and shall be punishable therefor under the laws of this state~~ fraudulent practice. Should any change or errors in records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the respective board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled, shall be paid.

Sec. 332. Section four hundred thirteen point one hundred seven (413.107), Code 1975, is amended to read as follows:

413.107 VIOLATIONS. Every person who shall violate or assist in the violation of any provision of this chapter shall be guilty of a simple misdemeanor ~~punishable by a fine of not less than ten dollars or more than one hundred dollars, and in default in payment thereof, by imprisonment in the county jail for not more than thirty days.~~

Sec. 333. Section four hundred thirteen point one hundred eleven (413.111), Code 1975, is amended to read as follows:

413.111 LIEN ON PROPERTY. The existence of a nuisance in or upon such dwelling, structure on the same lot with a

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dwelling, or on such lot, which the owner thereof has created or permitted to exist and any violation of this chapter as to such dwelling, structure, and lot of which the owner has been guilty shall in such proceeding subject such dwelling, structure, and lot respectively to a penalty of fifty dollars, which shall be a lien thereon until paid; and any violation of an order made or a notice given by the health officer, permitted or committed by the owner of a dwelling, structure on the same lot with a dwelling, or such lot, shall ~~in such proceeding subject the dwelling, structure, and lot respectively to a penalty of fifty dollars, which penalty shall be a lien thereon until paid~~ constitute a simple misdemeanor.

Sec. 334. Section four hundred twenty-two point twenty (422.20), Code 1975, is amended to read as follows:

422.20 INFORMATION CONFIDENTIAL--PENALTY. It shall be unlawful for any officer or employee of the state of Iowa to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any person committing an offense against the foregoing provision shall, ~~upon conviction for each such offense, be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine of not more than one thousand dollars, or both~~ be guilty of a serious misdemeanor; and if the offender be an officer or employee of the state of Iowa he shall also be dismissed from office or discharged from employment. Nothing herein shall prohibit turning over to duly authorized officers of the United States

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information and income returns pursuant to agreement between the director and the secretary of the treasury of the United States or his delegate.

Sec. 335. Section four hundred twenty-two point twenty-five (422.25), subsections five (5) and eight (8), Code 1975, are amended to read as follows:

5. Any person required to supply any information, to pay any tax, or to make, sign, or file any return or supplemental return, who willfully makes any false or fraudulent return, or willfully fails to pay such tax, supply such information, or make, sign, or file such return, at the time or times required by law, shall ~~upon conviction for each such offense be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding twenty-five hundred dollars, or both such fine and imprisonment~~ be guilty of a fraudulent practice.

8. Any person who willfully attempts in any manner to defeat or evade any tax imposed by this division or the payment thereof, shall upon conviction for each such offense be ~~punished by imprisonment in the county jail for a term not exceeding one year or in the state penitentiary for a term not exceeding five years or by a fine not exceeding five thousand dollars, or both such fine and imprisonment~~ guilty of a class "D" felony.

Sec. 336. Section four hundred twenty-two point forty (422.40), subsection four (4), Code 1975, is amended to read as follows:

4. Any person, or any officer or employee of any corporation, or member or employee of any partnership, who, with intent to evade any requirement of this division or any lawful requirement of the director thereunder, shall fail to pay any tax or to make, sign, or verify any return or to supply any information required by or under the provisions of this division, shall be guilty of a serious misdemeanor ~~and punished accordingly~~. Any person, corporation, or any officer

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or employee of a corporation, or member or employee of any partnership, who, with intent to evade any of the requirements of this division, or any lawful requirements of the director thereunder, shall make, render, sign, or verify any false or fraudulent return or statement, or shall supply any false or fraudulent information, or who shall aid, abet, direct, cause, or who shall procure anyone so to do, shall be ~~liable to a penalty of not more than five thousand dollars, to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction, and shall also upon conviction be punished by imprisonment in the penitentiary for a term not exceeding one year, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or both~~ guilty of a fraudulent practice. Such penalty shall be in addition to all other penalties in this division provided.

Sec. 337. Section four hundred twenty-two point forty-two (422.42), subsection sixteen (16), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Every operator of a vending machine or amusement device equipment, the receipts from the operation of which are taxable under section 422.43, shall by means of a sticker identify each such machine operated by him to show the valid sales tax permit number issued to him under which the sales tax concerning the operation of each given machine is being reported and remitted to the department. The stickers shall be provided by the department and it shall be the duty of each operator to place and maintain same in a place easily seen by the user on each machine operated by him. Failure to so identify such machines shall be ~~unlawful and~~ a simple misdemeanor.

Sec. 338. Section four hundred twenty-two point forty-five (422.45), subsection seven (7), paragraph c, Code 1975, is amended to read as follows:

c. Any contractor who shall willfully make false report

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of tax paid under the provisions of this subsection shall be guilty of a simple misdemeanor and in addition thereto shall be liable for the payment of the tax with penalty and interest thereon.

Sec. 339. Section four hundred twenty-two point fifty-eight (422.58), subsections two (2) and three (3), Code 1975, are amended to read as follows:

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage in the rendering, furnishing, or performing services enumerated in section 422.43, in this state after his license shall have been revoked, or without procuring a license within sixty days after the effective date of this division, as provided in section 422.53, or who shall violate the provisions of section 422.49, and the officers of any corporation who shall so act, shall be guilty of a simple misdemeanor~~, punishment for which shall be a fine of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days in the discretion of the court~~.

3. Any person required to make, render, sign, or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a class "D" felony ~~and shall, for each such offense, be fined not less than five hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both such fine and imprisonment, in the discretion of the court~~.

Sec. 340. Section four hundred twenty-two point seventy-two (422.72), subsection two (2), Code 1975, is amended to read as follows:

2. Any person violating the provisions of subsection 1 of this section shall be guilty of a serious misdemeanor ~~and~~

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~~punishable-by-a-fine-not-to-exceed-one-thousand-dollars.~~

Sec. 341. Section four hundred twenty-three point eleven (423.11), Code 1975, is amended to read as follows:

423.11 ABSORBING TAX PROHIBITED. It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this chapter will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. The director shall have the power to adopt and promulgate rules for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax. Any person violating any of the provisions of this section within this state shall be guilty of a simple misdemeanor ~~and-subject-to-the-penalties provided-in-section-423.20~~.

Sec. 342. Section four hundred twenty-three point nineteen (423.19), Code 1975, is amended to read as follows:

423.19 FRAUD. Any person required to make, render, sign, or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the tax, or amount required to be paid by this chapter, shall be guilty of a ~~felony-and-shall,-for-each-such-offense,-be fined-not-less-than-five-hundred-dollars-and-not-more-than five-thousand-dollars,-or-be-imprisoned-not-exceeding-one year,-or-be-subject-to-both-such-fine-and-imprisonment,-in the-discretion-of-the-court~~ fraudulent practice.

Sec. 343. Section four hundred twenty-three point twenty (423.20), Code 1975, is amended to read as follows:

423.20 PENALTY. Any retailer or other person failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return or

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other data required by the director, shall be guilty of a simple misdemeanor ~~and subject to a fine of not to exceed one hundred dollars for each such offense, or to imprisonment for not to exceed thirty days, or to both such fine and imprisonment, in the discretion of the court.~~

Sec. 344. Section four hundred twenty-three point twenty-six (423.26), Code 1975, is amended to read as follows:

423.26 PENALTY FOR FALSE STATEMENT. Any person who willfully makes any false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 is guilty of a simple misdemeanor.

Sec. 345. Section four hundred twenty-three A point four (423A.4), Code 1975, is amended to read as follows:

423A.4 PENALTY. A person who violates the provisions of this chapter shall upon conviction be ~~punished by imprisonment in the county jail for not more than one year or be fined not more than ten thousand dollars or punished by both such imprisonment and fine~~ guilty of an aggravated misdemeanor.

Sec. 346. Section four hundred twenty-four point thirteen (424.13), subsection two (2), Code 1975, is amended to read as follows:

2. Any person required to make, render, sign, or verify any return or supplementary return, who makes any false or fraudulent return with the intent to defeat or evade the assessment required by law to be made, shall be guilty of a ~~felony and shall, for each such offense, be fined not less than five hundred dollars, nor not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both fine and imprisonment, in the discretion of the court~~ fraudulent practice.

Sec. 347. Section four hundred twenty-five point thirteen (425.13), Code 1975, is amended to read as follows:

425.13 CONSPIRACY TO DEFRAUD. If any two or more persons conspire and confederate together with fraudulent intent to obtain the credit provided for under the terms of this chap-

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ter by making a false deed, or a false contract of purchase, they are guilty of a ~~conspiracy-and-every-person-who-is-convicted-of-such-a-conspiracy-shall-be-imprisoned-in-the-county-jail-for-a-period-not-to-exceed-one-year,-or-shall-be-fined-in-a-sum-not-to-exceed-one-thousand-dollars,-or-shall-be-imprisoned-in-the-penitentiary-not-more-than-three-years~~ fraudulent practice.

Sec. 348. Section four hundred twenty-five point fourteen (425.14), Code 1975, is amended to read as follows:

425.14 FALSE AFFIDAVITS. Any person making a false claim or affidavit for the purpose of securing a homestead tax credit, or for the purpose of aiding another to secure such homestead tax credit, shall be guilty of a ~~misdemeanor-and,-upon-conviction,-shall-be-punished-by-a-fine-of-not-more-than-one-hundred-dollars,-or-by-imprisonment-in-the-county-jail-not-more-than-thirty-days,-or-by-both-such-fine-and-imprisonment~~ fraudulent practice.

Sec. 349. Section four hundred twenty-five point twenty-nine (425.29), Code 1975, is amended to read as follows:

425.29 FALSE CLAIM--PENALTY. Any person making a false affidavit for the purpose of obtaining reimbursement provided for in this division or who knowingly receives the reimbursement without being legally entitled to it or makes claim for the reimbursement in more than one county in the state shall be guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-fined-not-more-than-one-hundred-dollars-or-imprisoned-in-th-county-jail-for-not-more-than-thirty-days-or-be-subject-to-both-such-fine-and-imprisonment~~. An action under this section shall be brought in the county in which the affidavit was filed. The claim for reimbursement shall be disallowed in full and if the claim has been paid the amount may be recovered by assessment in the manner that income taxes are assessed pursuant to sections 422.26 and 422.30. The director of revenue shall send a notice of disallowance of the claim.

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Sec. 350. Section four hundred twenty-seven point seven (427.7), Code 1975, is amended to read as follows:

427.7 PENALTY. Any person making a false affidavit for the purpose of obtaining the exemption provided for in sections 427.3 to 427.6 or who knowingly receives such exemption without being legally entitled thereto, or who makes claim for exemption in more than one county in the state shall be guilty of a ~~misdemeanor-and-upon-conviction-thereof-fined not-more-than-one-hundred-dollars-or-imprisoned-in-the-county jail-for-not-more-than-thirty-days-or-be-both-so-fined-and imprisoned~~ fraudulent practice.

Sec. 351. Section four hundred twenty-seven point sixteen (427.16), subsection seven (7), Code 1975, is amended to read as follows:

7. PENALTY. If any person willfully makes or causes to be made any statement to the officer charged with assessment or valuation of property for tax purposes in his taxing district containing a false statement of a material fact, be he owner, shipper, storageman, or warehouseman, he shall be guilty of a ~~misdemeanor-and-upon-conviction-shall-be-punished-by-a-fine-of-not-less-than-one-hundred-dollars-or-more than-five-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-less-than-thirty-days-or-more-than-one-hundred fifty-days~~ fraudulent practice.

Sec. 352. Section four hundred twenty-seven A point four (427A.4), unnumbered paragraph five (5), Code 1975, is amended to read as follows:

Any person making a false affidavit for the purpose of obtaining the credit provided for in this section, or who knowingly receives such credit without being legally entitled thereto, or who makes claim for credit of more than ten thousand dollars in the state shall be guilty of a ~~misdemeanor and-upon-conviction-thereof-shall-be-fined-not-more-than-one hundred-dollars-or-imprisoned-in-the-county-jail-for-not-more than-thirty-days-or-be-both-so-fined-and-imprissioned~~

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fraudulent practice.

Sec. 353. Section four hundred twenty-eight A point ten (428A.10), Code 1975, is amended to read as follows:

428A.10 PENALTY. Any person, firm or corporation liable for the tax imposed by this chapter who knowingly fails to comply with the provisions of sections 428A.5 and 428A.6 relating to the attachment or cancellation of documentary stamps, shall be ~~subject-to-a-fine-of-not-less-than-one-hundred-dollars-nor-more-than-five-hundred-dollars~~ guilty of a simple misdemeanor.

Sec. 354. Section four hundred forty-one point nineteen (441.19), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The assessor shall list every person in his county or city as the case may be and assess all the property therein, personal and real, except such as is heretofore exempted or otherwise assessed. Any person who shall refuse to assist in making out a list of his property, or of any property which he is by law required to assist in listing, or who shall refuse to make either of the oaths or affirmations or combinations thereof required by section 441.20, shall be guilty of a simple misdemeanor ~~and,-upon-conviction-thereof,-shall-be-fined-in-a-sum-not-to-exceed-five-hundred-dollars~~.

Sec. 355. Section four hundred forty-four point seven (444.7), Code 1975, is amended to read as follows:

444.7 EXCESSIVE TAX PROHIBITED. It is hereby made a simple misdemeanor for the board of supervisors to authorize, or the county auditor to carry upon the tax lists for any year, an amount of tax for any public purpose in excess of the amount certified or authorized as provided by law. The state comptroller shall prescribe and furnish the county auditors forms and instructions to aid them in determining the legality and authorized amount of tax levies. In the case of an excessive levy, it shall be the duty of the county auditor to reduce it to the maximum amount authorized by law,

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and in any event not in excess of the amount certified; and in case of an illegal levy the county auditor shall not enter or carry any tax on the tax lists for such levy.

Sec. 356. Section four hundred forty-four point seventeen (444.17), Code 1975, is amended to read as follows:

444.17 PEDDLING WITHOUT LICENSE. Any person peddling outside the limits of a city without such license or after the expiration thereof, shall be guilty of a simple misdemeanor, whether he be the owner of the goods sold or carried by him or not, and, on conviction thereof, shall forfeit and pay into the county treasury, in addition to the penalty imposed therefor, double the amount of the tax for one year as fixed in section 444.13.

Sec. 357. Section four hundred forty-four point nineteen (444.19), Code 1975, is amended to read as follows:

444.19 VIOLATIONS. Any person exhibiting any such show without first having obtained such license shall be guilty of a simple misdemeanor, and shall also forfeit and pay to the county treasurer double the amount fixed for such license, for the benefit of the school fund.

Sec. 358. Section four hundred forty-six point twenty-six (446.26), Code 1975, is amended to read as follows:

446.26 MISCONDUCT OF OFFICERS. Any treasurer or auditor failing to attend a sale of lands in person or by deputy shall ~~forfeit and pay the sum of one hundred dollars, to be recovered in an action in the name of the county and for its use~~ be guilty of a simple misdemeanor. If such officer or deputy shall sell or assist in selling any real estate, knowing it is not subject to taxation, or that the taxes for which it is sold have been paid, or shall knowingly and willfully sell or assist in selling any real estate for taxes to defraud the owner thereof, or shall knowingly and willfully execute a deed for property so sold, he shall~~, upon conviction, be fined in a sum of not less than one thousand nor more than three thousand dollars, or imprisoned in the county~~

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~~jail-not-exceeding-one-year,-or-both-fined-and-imprisoned,~~ be guilty of a serious misdemeanor and shall be liable to pay the injured party all damages sustained by him on account thereof, and all such sales shall be void.

Sec. 359. Section four hundred forty-six point twenty-seven (446.27), Code 1975, is amended to read as follows:

446.27 FRAUD OF OFFICERS. If any treasurer or auditor shall be directly or indirectly concerned in the purchase of any real estate sold for the nonpayment of taxes, he and his sureties shall be liable on his official bond for all damages sustained by the owner of such property, and all such sales shall be void. In addition thereto, the officer so offending shall~~,-upon-conviction,~~ be ~~fined-in-a-sum-of-not more-than-one-thousand-dollars~~ guilty of a fraudulent practice.

Sec. 360. Section four hundred fifty point fifty (450.50), Code 1975, is amended to read as follows:

450.50 REMOVAL OF PROPERTY FROM STATE--BOND. It shall be unlawful for any person to remove from this state any property, or the proceeds thereof, that may be subject to the tax imposed by this chapter, without paying the said tax to the department of revenue. Any person violating the provision of this section shall be guilty of a ~~felony~~ serious misdemeanor and upon conviction shall be fined an amount equal to twice the amount of tax, interest, and costs for which the estate may be liable~~,-but-in-no-case-less-than-two-hundred dollars,-and-imprisoned-as-the-court-shall-direct,-until-the fine-is-paid~~; provided, however, that the penalty hereby imposed shall not be enforced if, prior to the removal of such property or the proceeds thereof, the person desiring to effect such removal files with the clerk a bond conditioned upon the payment of the tax, interest, and costs, as is provided in section 450.49 hereof.

Sec. 361. Section four hundred fifty-two point three (452.3), Code 1975, is amended to read as follows:

452.3 DISCOUNTING WARRANTS. If the ~~state~~ treasurer of

state or any county treasurer, by himself or through another, discounts state comptroller's or auditor's warrants, either directly or indirectly, he shall ~~upon conviction be fined in any sum not exceeding one thousand dollars~~ be guilty of a serious misdemeanor.

Sec. 362. Section four hundred fifty-two point four (452.4), Code 1975, is amended to read as follows:

452.4 LOANS BY COUNTY TREASURER. A county treasurer shall be ~~liable to a like fine~~ guilty of a serious misdemeanor for loaning out, or in any manner using for private purposes, state, county, or other funds in his hands.

Sec. 363. Section four hundred fifty-two point five (452.5), Code 1975, is amended to read as follows:

452.5 LOANS BY ~~STATE~~ TREASURER OF STATE. The ~~state~~ treasurer of state shall be ~~liable to a fine of not more than ten thousand dollars for a like~~ guilty of a serious misdemeanor for a like violation.

Sec. 364. Section four hundred fifty-two point fourteen (452.14), Code 1975, is amended to read as follows:

452.14 FALSE STATEMENTS OR REPORTS. Any officer or other person making a false statement or report or in any manner violating any of the provisions of sections 452.10 to 452.13, shall be guilty of a ~~misdemeanor and shall be liable to a fine of not less than five hundred dollars~~ fraudulent practice.

Sec. 365. Section four hundred fifty-two point fifteen (452.15), Code 1975, is amended to read as follows:

452.15 OFFICIAL DELINQUENCY. If any auditor or treasurer or other officer shall neglect or refuse to perform any act or duty specifically required of him, such officer shall be guilty of a simple misdemeanor, ~~and, upon conviction, shall be fined in any sum not exceeding one thousand dollars,~~ and he and his bondsmen shall be liable on his official bond for ~~such fine~~ any fine imposed, and for the damages sustained by any person through such neglect or refusal.

Sec. 366. Section four hundred fifty-five point one hun-

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dred sixty (455.160), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person or persons willfully diverting, obstructing, impeding, or filling up, without legal authority, any ditch, drain, or watercourse or breaking down or injuring any levee or the bank of any settling basin, established, constructed, and maintained under any provision of law, or obstructing, or engaging in travel or agricultural practices upon the improvement or rights of way of a levee or drainage district which the governing body thereof has, by resolution, determined to be injurious to such improvement or to interfere with its proper preservation, operation, or maintenance, and has prohibited, shall be deemed guilty of a serious misdemeanor ~~and punished accordingly~~ and any such unlawful act as above described is hereby declared to be a nuisance and may be abated as such.

Sec. 367. Section four hundred fifty-five A point thirty-nine (455A.39), Code 1975, is amended to read as follows:

455A.39 PENALTIES. Whoever is convicted of erecting, causing or continuing a common or public nuisance, as provided in this chapter, or whoever diverts or withdraws water in violation of the provisions of this chapter, upon conviction, shall be ~~fined not exceeding one hundred dollars or be imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor and each day that such violation continues after conviction shall be considered a separate offense.

Sec. 368. Section four hundred fifty-five B point sixty-four (455B.64), Code 1975, is amended to read as follows:

455B.64 MISDEMEANOR. Any person, including any firm, corporation, municipal corporation, or other governmental subdivision or agency, violating any provisions of this part 2 of division III or the rules adopted thereunder after written notice thereof by the executive director is guilty of a simple misdemeanor. Each day of operation in such violation

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of said part or any rules adopted thereunder shall constitute a separate offense. ~~Upon conviction, such persons shall be fined not exceeding one hundred dollars, or be imprisoned in the county jail for not more than thirty days, or by both such fine and imprisonment.~~ It shall be the duty of the appropriate county attorney to secure injunctions of continuing violations of any provisions of said part or the rules adopted thereunder.

Sec. 369. Section four hundred fifty-five B point ninety-four (455B.94), Code 1975, is amended to read as follows:

455B.94 PENALTY. Any person who violates any provisions of this part 2 of division IV or rules adopted under said part, or any order of the commission or executive director issued pursuant to said part, shall be ~~punished by a fine of not more than five hundred dollars or by imprisonment not to exceed six months or punished by both such fine and imprisonment~~ be guilty of a serious misdemeanor and, in addition, he may be enjoined from continuing such violation. Each day of continued violation after notice that a violation is being committed shall constitute a separate violation.

Sec. 370. Section four hundred fifty-five B point ninety-eight (455B.98), Code 1975, is amended to read as follows:

455B.98 PENALTY. Any person violating the provisions of section 455B.97, ~~shall be guilty of a misdemeanor and,~~ upon conviction, shall be ~~subject to a fine of not less than fifteen dollars nor more than one hundred dollars or be imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor. The court, in lieu of or in addition to any other sentence imposed, may direct and supervise a labor of litter gathering.

Sec. 371. Section four hundred fifty-five B point one hundred five (455B.105), Code 1975, is amended to read as follows:

455B.105 PENALTY. Any person violating the provisions

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of sections 455B.100 to 455B.103 or the rules adopted by the commission under said sections is guilty of a simple misdemeanor.

Sec. 372. Section four hundred sixty-nine point thirteen (469.13), Code 1975, is amended to read as follows:

469.13 VIOLATIONS. The construction, maintenance, or operation of a dam for the purpose specified herein without a permit first being issued, as in this chapter provided, shall constitute a simple misdemeanor~~,-and-shall-be-punishable-by-a-fine-of-not-less-than-one-hundred-dollars-nor-more than-five-hundred-dollars~~.

Sec. 373. Section four hundred sixty-nine A point seven (469A.7), Code 1975, is amended to read as follows:

469A.7 PENALTY. Any person, firm, association or corporation who shall violate the provisions of section 469A.1, shall be guilty of a serious misdemeanor ~~and-upon-conviction shall-be-punished-by-a-fine-of-not-less-than-one-hundred dollars-nor-more-than-one-thousand-dollars,-or-shall-be imprisoned-in-the-county-jail-for-not-less-than-thirty-days nor-more-than-six-months,-or-by-both-such-fine-and-imprisonment~~. Each separate day that a violation occurs shall constitute a separate offense.

Sec. 374. Section four hundred seventy-four point twenty-one (474.21), Code 1975, is amended to read as follows:

474.21 HINDERING OR OBSTRUCTING DEPARTMENT. Any person who shall willfully obstruct it or its members in the performance of their duties, or who shall refuse to give any information within his possession that may be required by it within the line of its duty, shall be ~~fined-not-exceeding-one-thousand-dollars,-in-the-discretion-of-the-court~~ guilty of a simple misdemeanor.

Sec. 375. Section four hundred seventy-seven point eleven (477.11), Code 1975, is amended to read as follows:

477.11 VIOLATIONS. Any railway company violating the provisions of sections 477.9 and 477.10, and any agent,

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telephone or telegraph operator of such railroad company violating the provisions of section 477.10 in relation to posting bulletins in the waiting room indicating when the trains are late or on time, shall be ~~punished by a fine of not less than five dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 376. Section four hundred seventy-seven point fifteen (477.15), Code 1975, is amended to read as follows:

477.15 VIOLATIONS. Any corporation, company, or person operating a railroad in this state and using a locomotive engine, or running a train of cars, or using any freight, way, or other car contrary to the provisions of sections 477.12 to 477.14 shall be guilty of a serious misdemeanor~~, and shall be subject to a fine of not less than five hundred nor more than one thousand dollars for each and every offense~~; but such penalties shall not apply to companies hauling cars belonging to railroads other than those of this state which are engaged in interstate traffic.

Sec. 377. Section four hundred seventy-seven point nineteen (477.19), Code 1975, is amended to read as follows:

477.19 VIOLATIONS. Any person, railway company, terminal transfer, or other corporation or company who violates any of the provisions of section 477.17 shall be deemed guilty of a serious misdemeanor ~~and upon conviction shall be punished by a fine of not less than fifty dollars or more than five hundred dollars for any such violation~~, and each day that every such engine is operated shall constitute a separate and distinct violation of said section.

Sec. 378. Section four hundred seventy-seven point twenty-one (477.21), Code 1975, is amended to read as follows:

477.21 VIOLATIONS. Any violation of section 477.20 shall be ~~punished by a fine of not less than fifty dollars nor more than one hundred dollars~~ deemed a simple misdemeanor for each day any locomotive engine is operated in violation thereof.

Sec. 379. Section four hundred seventy-seven point twenty-

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four (477.24), Code 1975, is amended to read as follows:

477.24 VIOLATIONS. Any person, firm, or corporation owning such line of railway or the equipment operated thereon, who shall cause or permit any locomotive, power vehicle, power car, or other equipment used as the equivalent thereof, to be operated without being equipped with the headlight required by the provisions of section 477.22 shall be deemed guilty of a serious misdemeanor ~~and, upon conviction, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense.~~

Sec. 380. Section four hundred seventy-seven point twenty-eight (477.28), Code 1975, is amended to read as follows:

477.28 VIOLATIONS. Any common carrier as provided in section 477.26 violating any of the provisions of section 477.27 shall be deemed guilty of a simple misdemeanor, ~~and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars for each offense.~~

Sec. 381. Section four hundred seventy-seven point thirty-three (477.33), Code 1975, is amended to read as follows:

477.33 PENALTY. Each and every steam railroad company failing to provide and maintain in good condition and working order an automatic firebox door as required and provided for in sections 477.29 to 477.31 shall be guilty of a serious misdemeanor ~~and shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars~~ for each and every day such locomotive is operated in this state without such automatic door.

Sec. 382. Section four hundred seventy-seven point forty (477.40), Code 1975, is amended to read as follows:

477.40 VIOLATIONS. Any railroad company which after receiving said notice fails to comply, within the time fixed, with the provisions of section 477.37, shall be guilty of a simple misdemeanor ~~and upon conviction shall be fined not exceeding one hundred dollars for each offense~~ and the in-

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spector shall file information in such a case.

Sec. 383. Section four hundred seventy-seven point forty-four (477.44), Code 1975, is amended to read as follows:

477.44 VIOLATIONS. If any officer, agent, or employee of any such company, or any lessee, engaged in operating any sleeper or sleeping-car line terminating or operated within the state, shall neglect or refuse to comply with any of the provisions of sections 477.42 and 477.43, he shall be guilty of a simple misdemeanor~~,-and,-upon-conviction-thereof,-fined in-a-sum-not-exceeding-five-hundred-dollars,-and-imprisoned not-more-than-six-months~~.

Sec. 384. Section four hundred seventy-seven point forty-seven (477.47), Code 1975, is amended to read as follows:

477.47 VIOLATIONS--INVESTIGATION--PROSECUTIONS. Any superintendent, trainmaster, train dispatcher, yardmaster, or other official of any railroad in the state, violating any of the provisions of section 477.45, shall be deemed guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-punished by-a-fine-of-not-less-than-one-hundred-dollars-and-not-more than-five-hundred-dollars-for-each-offense~~.

Sec. 385. Section four hundred seventy-seven point fifty-two (477.52), Code 1975, is amended to read as follows:

477.52 VIOLATIONS. Any corporation violating section 477.51 shall be deemed guilty of a simple misdemeanor ~~and fined-in-a-sum-not-less-than-twenty-five-dollars,-nor-more than-one-hundred-dollars,-for-each-separate-offense~~, and each and every failure or refusal to pay each employee the amount of wages due him or her at the time, or under the conditions required in section 477.51, shall constitute a separate offense.

Sec. 386. Section four hundred seventy-seven point fifty-four (477.54), Code 1975, is amended to read as follows:

477.54 VIOLATIONS. Any failure to comply with the provisions of section 477.53 shall be deemed a simple misdemeanor ~~and-shall-be-punished-accordingly~~.

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Sec. 387. Section four hundred seventy-seven point sixty (477.60), Code 1975, is amended to read as follows:

477.60 VIOLATIONS. A failure to comply with the order of the state department of transportation within thirty days from service of such notice shall also be a simple misdemeanor~~, for which said company shall be subject to a fine of one thousand dollars~~, and noncompliance for each thirty days thereafter shall constitute a separate and distinct offense~~, subject to a fine of one thousand dollars~~.

Sec. 388. Section four hundred seventy-seven point sixty-two (477.62), Code 1975, is amended to read as follows:

477.62 PENALTY. Any railroad found guilty of violating the provisions of section 477.61 shall be ~~fined not less than twenty-five dollars nor more than one hundred dollars for each violation~~ guilty of a simple misdemeanor.

Sec. 389. Section four hundred seventy-seven point sixty-three (477.63), Code 1975, is amended to read as follows:

477.63 SCREEN EXHAUST FIRE CONTROLS. No locomotive or other rolling stock shall be operated unless it is equipped with proper deflector and screen exhaust fire controls and uses adequate devices to prevent the escape of blowing or burning materials or substances and is maintained in good working order to protect against the start and spread of fires along the right of way. A violation of this section shall be a simple misdemeanor ~~punishable by a fine of not more than one hundred dollars or thirty days in jail~~. The railroad, and any officers, agent, lessee or independent contractor found guilty of a violation of this section shall be ~~punishable by a fine of not more than one hundred dollars or thirty days in jail~~ guilty of a simple misdemeanor.

Sec. 390. Section four hundred seventy-eight point ten (478.10), Code 1975, is amended to read as follows:

478.10 FAILURE TO FENCE--GENERAL PENALTY. If the corporation, officer thereof or lessee owning or engaged in the operation of any railroad in the state refuses or neglects

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to comply with any provision of this chapter relating to the fencing of the tracts, such corporation, officer, or lessee shall be guilty of a simple misdemeanor~~,-and-upon-conviction-fined-in-a-sum-not-exceeding-five-hundred-dollars-for each-offense~~, and every thirty days' continuance of such refusal or neglect shall constitute a separate and distinct offense.

Sec. 391. Section four hundred seventy-eight point twenty (478.20), Code 1975, is amended to read as follows:

478.20 VIOLATIONS. Any officer or employee of any railway company violating any of the provisions of section 478.19 shall be ~~punished-by-a-fine-not-exceeding-one-hundred-dollars-for-each-offense~~ guilty of a simple misdemeanor.

Sec. 392. Section four hundred seventy-eight point thirty-two (478.32), Code 1975, is amended to read as follows:

478.32 VIOLATIONS. Any person in charge of an interurban car or cars, who shall violate the provisions of section 478.30 and any engineer or person in charge of an engine, who shall violate the provisions of section 478.31 shall be ~~fined-for-each-offense-not-exceeding-one-hundred-dollars~~ guilty of a simple misdemeanor; and the corporation or company on whose road such offense is committed, shall be ~~fined not-exceeding-two-hundred-dollars-for-each-offense~~ guilty of a simple misdemeanor.

Sec. 393. Section four hundred seventy-nine point nineteen (479.19), Code 1975, is amended to read as follows:

479.19 "EXTORTION" DEFINED--PENALTY. If any railway corporation or carrier subject to the provisions of this chapter shall charge, collect, demand, or receive more than a fair and reasonable rate of toll or compensation for the transportation of passengers or freight of any description, or for the use and transportation of any railway car upon its track or any of the branches thereof, or upon any railroad within the state which it has the right, license or permission to use, operate, or control; or shall make any un-

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just and unreasonable charge prohibited in this chapter, it shall be deemed guilty of ~~extortion, and be dealt with as hereinafter provided~~ a fraudulent practice; and if any such railroad corporation or common carrier shall be found guilty of any unjust discrimination as defined in this chapter it shall, upon conviction thereof, be dealt with as hereinafter provided.

Sec. 394. Section four hundred seventy-nine point twenty-nine (479.29), Code 1975, is amended to read as follows:

479.29 PENALTY FOR DISCRIMINATION. Any ~~such~~ corporation ~~guilty of extortion, or of~~ making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freights, shall~~, upon conviction thereof, be fined in any sum not less than one thousand nor more than five thousand dollars for the first offense, and for each subsequent offense not less than five thousand nor more than ten thousand dollars--such fine to be imposed in a criminal prosecution by indictment~~ be guilty of an aggravated misdemeanor; or shall be subject to the liability prescribed in section 479.30, to be recovered as therein provided.

Sec. 395. Section four hundred seventy-nine point thirty (479.30), Code 1975, is amended to read as follows:

479.30 CIVIL FORFEITURE. Any ~~such~~ railway corporation ~~guilty of extortion, or of~~ making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freights, shall ~~forfeit and pay to the state not less than one thousand nor more than five thousand dollars for the first offense, and not less than five thousand nor more than ten thousand dollars for each subsequent offense, to be recovered in a civil action in the name of the state, and the release from liability or penalty provided for in this chapter shall not apply to a criminal prosecution under section 479.29, or to a civil action under this sec-~~

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~~tion~~ be guilty of a fraudulent practice.

Sec. 396. Section four hundred seventy-nine point seventy-nine (479.79), Code 1975, is amended to read as follows:

479.79 VIOLATIONS. Any railroad in this state engaged in the transportation of livestock, and failing or refusing to comply with the requirements of section 479.78 shall be deemed guilty of a simple misdemeanor~~,-and-upon-conviction thereof-shall-be-fined-not-less-than-one-hundred-dollars-for each-day's-negligence-or-refusal-to-comply-therewith,-and all-moneys-so-collected-as-fines-shall-be-paid-into-the-public-school-funds-of-the-state~~.

Sec. 397. Section four hundred seventy-nine point eighty-eight (479.88), Code 1975, is amended to read as follows:

479.88 WHEN UNLOADING NOT REQUIRED--VIOLATIONS. When such animals shall be carried in cars in which they shall and do have proper food, water, space and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply. Any railway company, owner or custodian of such animals, who shall fail to comply with the provisions of sections 479.85 to 479.87 shall~~,-for-each-and every-such-offense,-be-liable-for-and-forfeit-and-pay-a-penalty-of-not-less-than-one-hundred-nor-more-than-five-hundred dollars~~ be guilty of a simple misdemeanor.

Sec. 398. Section four hundred seventy-nine point ninety-seven (479.97), Code 1975, is amended to read as follows:

479.97 VIOLATIONS. Any common carrier, its officer, agent, or representative, violating any of the provisions of sections 479.93 to 479.96, shall be ~~fined-in-a-sum-not less-than-one-hundred-dollars-and-not-more-than-ten-hundred dollars-for-each-offense,-or-in-the-discretion-of-the-court shall-be-imprisoned-in-the-county-jail-for-not-less-than thirty-and-not-more-than-ninety-days~~ guilty of a simple misdemeanor; and any person other than the persons excepted in sections 479.94 and 479.95 who accepts or uses any free ticket, free pass, or free transportation for carriage or

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passage within this state shall be subject to a like penalty.

Sec. 399. Section four hundred seventy-nine point one hundred eight (479.108), Code 1975, is amended to read as follows:

479.108 VIOLATION--PENALTY. Any common carrier operating in this state violating any of the provisions of sections 479.103 to 479.107 by neglecting or refusing to weigh cars or to furnish certificates of weights as therein provided shall be guilty of a simple misdemeanor ~~and shall be, upon conviction thereof, fined in the sum of not more than one hundred twenty-five dollars for each and every violation.~~

Sec. 400. Section four hundred seventy-nine point one hundred fifteen (479.115), Code 1975, is amended to read as follows:

479.115 VIOLATIONS. Any common carrier subject to the provisions of sections 479.109 to 479.114 or any director or officer thereof, or any receiver, trustee, lessee, agent, or employee, who alone, or with any other director, officer, receiver, trustee, lessee, agent, or employee, shall willfully take, use, divert, or appropriate any coal, coke, or oil, or suffer or permit the same to be taken, shall be guilty of a simple misdemeanor~~, and upon conviction thereof, be fined not more than five thousand dollars, nor less than five hundred dollars for each offense~~.

Sec. 401. Section four hundred eighty-four point twenty-eight (484.28), Code 1975, is amended to read as follows:

484.28 VIOLATIONS. Every person, partnership, company, or corporation owning or operating a street railway in this state who shall fail to comply with the provisions of section 484.27 shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars for each offense~~. Any failure to comply with the provisions of section 484.27 shall be deemed a separate offense.

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Sec. 402. Section four hundred eighty-eight point six (488.6), Code 1975, is amended to read as follows:

488.6 DELAY--WILLFUL ERROR--REVEALING CONTENTS. Any person employed in transmitting messages by telegraph or telephone must do so with fidelity and without unreasonable delay, and if anyone willfully fails thus to transmit them, or intentionally transmits a message erroneously, or makes known the contents of any message sent or received to any person except him to whom it is addressed, or his agent or attorney, or willfully and wrongfully takes or receives any telegraph or telephone message, he is guilty of a simple misdemeanor.

Sec. 403. Section four hundred eighty-nine point twenty-four (489.24), Code 1975, is amended to read as follows:

489.24 VIOLATIONS. Any person, company, or corporation constructing or undertaking to construct or maintain any electric transmission line, without first procuring a franchise for such purpose in accordance with the provisions of this chapter, shall be ~~fined in the sum of not less than one hundred dollars nor more than one thousand dollars~~ guilty of a serious misdemeanor; and for violating any of the other provisions of this chapter relating to electric transmission lines or disobeying any order or rule made by the state commerce commission in relation thereto, shall be ~~fined not exceeding one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 404. Section four hundred ninety-one point forty (491.40), Code 1975, is amended to read as follows:

491.40 FRAUD--PENALTY FOR. Intentional fraud in failing to comply substantially with the articles of incorporation, or in deceiving the public or individuals in relation to their means or their liabilities, shall be a ~~misdemeanor, and shall subject those guilty thereof to fine and imprisonment, or both, at the discretion of the court~~ fraudulent practice. Any person who has sustained injury from such fraud may also recover damages therefor against those guilty of participating

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in such fraud.

Sec. 405. Section four hundred ninety-one point forty-three (491.43), Code 1975, is amended to read as follows:

491.43 KEEPING FALSE ACCOUNTS. The intentional keeping of false books or accounts shall be a ~~misdemeanor~~ fraudulent practice on the part of any officer, agent, or employee of the corporation guilty thereof, or of anyone whose duty it is to see that such books or accounts are correctly kept.

Sec. 406. Section four hundred ninety-one point sixty-eight (491.68), Code 1975, is amended to read as follows:

491.68 FALSE STATEMENTS OR PRETENSES. Every director, officer, or agent of any corporation or joint-stock association, who knowingly concurs in making, publishing, or posting, either generally or privately to the stockholders or other persons, any written report, exhibit, or statement of its affairs or pecuniary condition, or book or notice containing any material statement which is false, or any untrue or willfully or fraudulently exaggerated report, prospectus, account, statement of operations, values, business, profits, expenditures, or prospects, or any other paper or document intended to produce or give, or having a tendency to produce or give, the shares of stock in such corporation a greater value or a less apparent or market value than they really possess, is guilty of a ~~felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary not to exceed one year, or by imprisonment in the county jail not to exceed six months or a fine not exceeding five hundred dollars~~ fraudulent practice.

Sec. 407. Section four hundred ninety-one point seventy-one (491.71), Code 1975, is amended to read as follows:

491.71 VIOLATIONS. Any person convicted of a violation of any of the provisions of sections 491.69 and 491.70 shall be ~~punished by imprisonment in the county jail not less than six months or more than one year and, in the discretion of the court, by fine not exceeding ten hundred dollars~~ guilty

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of a serious misdemeanor.

Sec. 408. Section four hundred ninety-two point three (492.3), Code 1975, is amended to read as follows:

492.3 PENALTIES. Any person violating the provisions of sections 492.1 and 492.2, or knowingly making a false statement on such certificate, shall be ~~fined not less than one hundred dollars nor more than five hundred dollars, and shall stand committed to the county jail until such fine and costs are paid~~ guilty of a fraudulent practice.

Sec. 409. Section four hundred ninety-two point twelve (492.12), Code 1975, is amended to read as follows:

492.12 VIOLATIONS. Any officer, agent or representative of a corporation who violates any of the provisions of sections 492.5 to 492.8 shall, ~~upon conviction, be fined not less than two hundred dollars nor more than ten hundred dollars, and be imprisoned in the county jail for not less than thirty days nor more than six months~~ be guilty of a simple misdemeanor.

Sec. 410. Section four hundred ninety-four point thirteen (494.13), Code 1975, is amended to read as follows:

494.13 VIOLATIONS BY OFFICERS. Any agent, officer, or employee who shall knowingly act or transact such business for such corporation, when it has no valid permit as provided herein, shall be guilty of a simple misdemeanor, ~~and for such offense shall be fined not to exceed one hundred dollars, or be imprisoned in the county jail not to exceed thirty days, or be punished by both such fine and imprisonment, and pay all costs of prosecution~~.

Sec. 411. Section four hundred ninety-six A point one hundred thirty-one (496A.131), Code 1975, is amended to read as follows:

496A.131 PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS. Each officer and director of a corporation, domestic or foreign, who willfully fails or refuses within the time prescribed by this chapter to answer truthfully and fully rea-

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sonable and proper interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a ~~misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars~~ fraudulent practice.

Sec. 412. Section four hundred ninety-six A point one hundred forty-five (496A.145), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person convicted of a violation of any of the provisions of this section shall be ~~punished by imprisonment in the county jail not less than six months or more than one year and, in the discretion of the court, by a fine not exceeding ten hundred dollars~~ guilty of a serious misdemeanor.

Sec. 413. Section five hundred one point six (501.6), Code 1975, is amended to read as follows:

501.6 UNAUTHORIZED COMPANIES--PENALTY. Any member or representative of any association who shall attempt to issue or sell any stock as contemplated by this chapter or to transact any business whatsoever in the name of or on behalf of such association, not authorized to do business within this state, or which has failed or refused to comply with the provisions of this chapter, or has violated any of its provisions shall be deemed guilty of a serious misdemeanor ~~and on conviction thereof shall be punished by imprisonment in the county jail not to exceed one year, or by a fine of not less than one hundred nor more than ten hundred dollars or by both such fine and imprisonment in the discretion of the court~~.

Sec. 414. Section five hundred two point twenty-six (502.26), Code 1975, is amended to read as follows:

502.26 FALSE STATEMENTS, ENTRIES, AND REPRESENTATIONS.

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Any person, firm, association, company, or corporation subject to the provisions of this chapter, that shall subscribe or cause to be made any false statement or false entry in any book required to be kept or relating to any business to be transacted in this state pursuant to the provisions of this chapter, or make or subscribe to any false statement, exhibit or paper filed with the commissioner of insurance, or shall make to the commissioner of insurance, his superintendent, agent, or representative any false or fraudulent statement concerning the proposed plan of business to be transacted, or the nature, value or character of securities to be sold in this state, or shall make to said commissioner of insurance, his superintendent, agent or representative any false statement as to the financial condition of such person, firm, association, company, or corporation shall be deemed guilty of a ~~felony, and upon conviction shall be fined in the sum of not more than five thousand dollars, or imprisoned not to exceed five years in the penitentiary or reformatory, or by both such fine and imprisonment in the discretion of the court~~ fraudulent practice.

Sec. 415. Section five hundred two point twenty-seven (502.27), Code 1975, is amended to read as follows:

502.27 GENERAL VIOLATIONS. Any person, firm, association, company, or corporation subject to the provisions of this chapter that shall sell or negotiate for the sale of any securities within this state without complying with the provisions of this chapter, or that continues to sell, offer for sale, or negotiates for the sale of securities in this state after his registration has been revoked or canceled by the commissioner of insurance, or that shall otherwise neglect or refuse to comply with any of the provisions of this chapter, shall be guilty of a serious misdemeanor ~~and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail not to exceed six months or by both such fine~~

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~~and-imprisonment-in-the-discretion-of-the-court~~, and if it shall be found that any such person is guilty of such a violation with the intent to defraud he shall be guilty of a class "D" felony ~~and-upon-conviction-thereof-shall-be-fined not-to-exceed-five-thousand-dollars-or-be-imprisoned-not-to exceed-five-years-in-the-penitentiary-or-reformatory-or-by both-such-fine-and-imprisonment-in-the-discretion-of-the court~~.

Sec. 416. Section five hundred two point twenty-eight (502.28), Code 1975, is amended to read as follows:

502.28 FALSE REPRESENTATIONS. Any person, firm, association, company, or corporation, or any agent or representative thereof, whether subject to the provisions of this chapter or otherwise, that sells, offers for sale, or negotiates for the sale of any securities within this state, and knowingly makes any false representations or statements as to the nature, character, or value of such security, or the amount of the earning power of such security whether in the nature of interest, dividends, or otherwise, or knowingly makes any other false or fraudulent representation to any person for the purpose of inducing said person to purchase said security, or conceals any material fact in the advertisement or prospectus of such security for the purpose of defrauding the purchaser, shall be deemed guilty of a ~~felony and-upon-conviction-thereof-shall-be-punished-by-a-fine-of not-less-than-five-hundred-dollars-nor-more-than-five-thousand-dollars-or-by-imprisonment-in-the-penitentiary-or reformatory-for-not-more-than-five-years-or-by-both-such-fine and-imprisonment~~ fraudulent practice.

Sec. 417. Section five hundred two point twenty-nine (502.29), is amended to read as follows:

502.29 PROMOTION BY STATE OFFICIALS AND EMPLOYEES. No state official or employee of the state shall use his name in his official capacity in connection with the endorsement or recommendation of the organization or the promotion of

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any company or in the disposal to the public of its securities, nor shall anyone use the stationery of the state or of any official thereof in connection with any such transaction. Whoever violates the aforesaid provision shall, upon conviction by any court of competent jurisdiction, be deemed guilty of a serious misdemeanor ~~and fined in any sum not to exceed five hundred dollars or be punished by confinement in a county jail for not more than ninety days or by both such fine and imprisonment~~.

Sec. 418. Section five hundred two point thirty (502.30), Code 1975, is amended to read as follows:

502.30 SECRET AGENTS--FAILURE TO DISCLOSE INTEREST. Any individual, not licensed as a dealer or salesman, who, with intent to secure financial gain for himself, advises and procures or assists in procuring any person to purchase any securities contemplated by this chapter and who receives for such service any commission or reward, without disclosing to the purchaser the fact of his interest shall, in addition to any other penalty, be guilty of a simple misdemeanor.

Sec. 419. Section five hundred three point thirteen (503.13), Code 1975, is amended to read as follows:

503.13 MISDEMEANOR. Any member, salesman, agent, or representative of any association, who shall attempt to issue any membership as contemplated by this chapter, or to transact any business whatsoever, in the name of or on behalf of such association not authorized to do business in this state, or which has failed or refused to comply with the provisions of this chapter, or has violated any of its provisions, shall be deemed guilty of ~~a~~ an aggravated misdemeanor~~, and on conviction thereof shall be punished by imprisonment in the penitentiary not to exceed five years, or fined not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment~~.

Sec. 420. Section five hundred four point thirteen (504.13), Code 1975, is amended to read as follows:

504.13 PENALTY. A violation of section 504.12 by a corporation shall be ~~punished by a fine of not more than one thousand dollars~~ a fraudulent practice. A violation of section 504.12 by an individual conducting an academic course or by an officer or managing head of a corporation shall be ~~punished by imprisonment in the penitentiary or men's or women's reformatory not more than seven years, or by fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment~~ a fraudulent practice.

Sec. 421. Section five hundred four A point eighty-seven (504A.87), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Each corporation, domestic or foreign, that fails or refuses to answer truthfully and fully within the time prescribed by this chapter reasonable and proper interrogatories propounded by the secretary of state in accordance with the provisions of this chapter, shall be deemed to be guilty of a simple misdemeanor ~~and upon conviction thereof may be fined in an amount not exceeding five hundred dollars~~.

Sec. 422. Section five hundred four A point eighty-eight (504A.88), Code 1975, is amended to read as follows:

504A.88 PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS. Each director and officer of a corporation, domestic or foreign, who willfully fails or refuses within the time prescribed by this chapter to answer truthfully and fully reasonable and proper interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a simple misdemeanor~~, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars~~.

Sec. 423. Section five hundred six point seven (506.7),

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Code 1975, is amended to read as follows:

506.7 PENALTY. Any person who violates any of the provisions of the preceding sections of this chapter, or who violates any order of the commissioner of insurance made by authority thereof, shall be guilty of a simple misdemeanor~~, and upon conviction thereof shall be punished by fine not to exceed one thousand dollars, and by imprisonment in the county jail not to exceed six months~~.

Sec. 424. Section five hundred seven point sixteen (507.16), Code 1975, is amended to read as follows:

507.16 UNLAWFUL SOLICITATION OF BUSINESS. Any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, solicits insurance for said company, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said company, shall be deemed guilty of a serious misdemeanor ~~and shall be subject to the penalties provided in sections 511.16 and 511.17~~, and the provisions of said sections are hereby extended to all companies contemplated by this chapter.

Sec. 425. Section five hundred seven A point ten (507A.10), Code 1975, is amended to read as follows:

507A.10 PENALTIES. Any unauthorized foreign or alien insurer who does any unauthorized act of an insurance business as set forth in this chapter shall be ~~fined not more than five thousand dollars. In addition to any other penalty provided for in this chapter or otherwise provided by law, any person or insurer violating this chapter shall forfeit to the state the sum of five hundred dollars for each offense and an additional sum of five hundred dollars for each month during which any such person or insurer continues such violation~~ guilty of a fraudulent practice.

Sec. 426. Section five hundred eight point twenty-seven

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(508.27), Code 1975, is amended to read as follows:

508.27 VIOLATIONS. Any company violating any of the provisions of section 508.25 shall~~,-upon-conviction-thereof,~~ be ~~fined-in-a-sum-not-less-than-one-hundred-nor-more-than-one-thousand-dollars-for-each-such-offense~~ guilty of a simple misdemeanor, and the court may also revoke its authority to do business within this state.

Sec. 427. Section five hundred nine point eighteen (509.18), Code 1975, is amended to read as follows:

509.18 PROHIBITED DEPOSIT IN FINANCIAL INSTITUTION. A company or its agent licensed to sell a policy of credit life or credit accident and health insurance or certificate under a policy of group credit life or credit accident and health insurance shall not deposit or offer to deposit funds in a financial institution of this state in exchange for the privilege of selling such insurance to or on behalf of the financial institution. Any person violating the provisions of this section shall be guilty of a simple misdemeanor.

Sec. 428. Section five hundred eleven point sixteen (511.16), Code 1975, is amended to read as follows:

511.16 ILLEGAL BUSINESS. Any officer, manager, or agent of any life insurance company or association who, with knowledge that it is doing business in an unlawful manner or is insolvent, solicits insurance with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of ~~a~~ an aggravated misdemeanor~~,-and-for-every-such-act,-on-conviction-thereof,-shall-be-adjudged-to-pay-a-fine-of-not-less-than-one-hundred-nor-more-than-one-thousand-dollars,-or-be-imprisoned-in-the-county-jail-not-exceeding-one-year,-or-be-punished-by-both-such-fine-and-imprisonment.~~

Sec. 429. Section five hundred eleven point eighteen (511.18), Code 1975, is amended to read as follows:

511.18 FRAUD IN PROCURING INSURANCE. Any agent, physi-

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cian, or other person who shall knowingly, by means of concealment of facts or false statements, procure or assist in procuring from any life insurance organization any policy or certificate of insurance, shall be ~~punished by a fine of not to exceed one thousand dollars or by imprisonment in the county jail not to exceed one year, or by both, in the discretion of the court~~ guilty of a fraudulent practice.

Sec. 430. Section five hundred twelve point thirty-nine (512.39), Code 1975, is amended to read as follows:

512.39 VIOLATIONS. Any officer, agent, or person acting for any such association or subordinate body thereof within this state, while such association shall be so enjoined or prohibited from doing business pursuant to this chapter, shall be deemed guilty of a serious misdemeanor~~, and, on conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court~~.

Sec. 431. Section five hundred twelve point forty (512.40), Code 1975, is amended to read as follows:

512.40 ILLEGAL BUSINESS--AGENTS. Any person who shall act within this state as an officer, agent, or otherwise for any such association which has failed, neglected, or refused to comply with, or which has violated any of the provisions of this chapter, or shall have failed or neglected to procure from the commissioner of insurance proper certificate of authority to transact business as provided for by this chapter, shall be ~~subject to the penalty provided in section 512.39 for the~~ guilty of a serious misdemeanor ~~therein specified~~.

Sec. 432. Section five hundred twelve point forty-one (512.41), Code 1975, is amended to read as follows:

512.41 FALSE REPRESENTATIONS. Any officer, agent, or member of such association, who shall obtain any money or

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property belonging thereto by any false or fraudulent representation, shall be ~~fined not more than five hundred dollars and costs, and stand committed until such fine and costs are paid, or may be imprisoned in the county jail not more than six months~~ guilty of a fraudulent practice.

Sec. 433. Section five hundred twelve point eighty (512.80), Code 1975, is amended to read as follows:

512.80 VIOLATIONS. Any officer, director, or manager of any association violating or consenting to the violation of any of the provisions of sections 512.73 to 512.78 shall be ~~punished by a fine of not less than ten hundred dollars, or by imprisonment in the county jail not less than one year, or by both such fine and imprisonment in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 434. Section five hundred twelve point one hundred three (512.103), Code 1975, is amended to read as follows:

512.103 ILLEGAL BUSINESS. Any officer, manager, agent, or representative of any association who with knowledge that its certificate of authority has been suspended or revoked, or that it is doing an illegal, unauthorized, or fraudulent business solicits insurance for said association, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said association, shall be deemed guilty of ~~a~~ an aggravated misdemeanor ~~and for every such act, on conviction thereof, shall pay a fine of not less than one hundred nor more than ten hundred dollars, or be imprisoned in the county jail not more than one year, or be punished by both such fine and imprisonment.~~

Sec. 435. Section five hundred twelve A point eight (512A.8), Code 1975, is amended to read as follows:

512A.8 PENALTIES. Except as otherwise provided by law, it shall be unlawful for any person or corporation to operate a benevolent association in this state except as provided for in this chapter. Any person violating the provisions of this chapter shall be ~~subject to a fine not exceeding one~~

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~~thousand-dollars-or-imprisonment-in-the-county-jail-not-exceeding-thirty-days,-or-both-such-fine-and-imprisonment~~ guilty of a serious misdemeanor.

Sec. 436. Section five hundred fourteen B point twenty-nine (514B.29), Code 1975, is amended to read as follows:

514B.29 ~~PENALTIES--INDICTABLE-MISDEMEANOR~~ PENALTY. Where no other penalty is provided for in this chapter, any person who violates any of the provisions of this chapter shall be guilty of a simple misdemeanor ~~and-upon-conviction-shall-be-punished-by-a-fine-not-to-exceed-one-hundred-dollars-or-by-imprisonment-for-a-period-not-to-exceed-thirty-days-or-be-punished-by-both-such-fine-and-imprisonment~~.

Sec. 437. Section five hundred fifteen point sixty (515.60), Code 1975, is amended to read as follows:

515.60 PENALTY. Any employee, representative, or agent of an insurance company violating any of the provisions of sections 515.52 to 515.59 shall be guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-liable-to-imprisonment-for-a-term-of-not-to-exceed-thirty-days-or-for-a-fine-not-to-exceed-one-hundred-dollars-or-for-both-such-fine-and-imprisonment~~.

Sec. 438. Section five hundred fifteen point one hundred twenty (515.120), Code 1975, is amended to read as follows:

515.120 VIOLATIONS. Any officer, manager, or agent of any insurance company or association who, with knowledge that it is doing business in an unlawful manner, or is insolvent, solicits insurance with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of a ~~misdemeanor,-and-for-every-such-act,-on-conviction-thereof,-shall-be-adjudged-to-pay-a-fine-of-not-less-than-one-hundred-nor-more-than-one-thousand-dollars,-or-be-imprisoned-in-the-county-jail-not-exceeding-one-year,-or-be-punished-by-both-such-fine-and-imprisonment~~ fraudulent practice.

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Sec. 439. Section five hundred fifteen point one hundred twenty-one (515.121), Code 1975, is amended to read as follows:

515.121 OFFICERS PUNISHED. Any president, secretary, or other officer of any company organized under the laws of this state, or any officer or person doing or attempting to do business in this state for any insurance company organized either within or without this state, failing to comply with any of the requirements of this chapter, or violating any of the provisions thereof, shall be guilty of a simple misdemeanor~~,-and-upon-conviction-thereof-shall-be-fined-in a-sum-not-exceeding-one-thousand-dollars,-and-be-imprisoned in-the-county-jail-for-a-period-not-less-than-thirty-days nor-more-than-six-months~~.

Sec. 440. Section five hundred fifteen point one hundred thirty-two (515.132), Code 1975, is amended to read as follows:

515.132 VIOLATIONS. Any such company, officer, agent, or employee violating the above provision shall be guilty of a simple misdemeanor~~,-and-on-conviction-thereof-shall-pay a-penalty-of-not-less-than-one-hundred-dollars-nor-more-than five-hundred-dollars-for-each-offense,-to-be-recovered-in the-name-of-the-state-for-the-use-of-the-permanent-school fund~~.

Sec. 441. Section five hundred fifteen point one hundred forty (515.140), Code 1975, is amended to read as follows:

515.140 VIOLATIONS--STATUS OF POLICY. Any insurance company, its officers or agents, or either of them, violating any of the provisions of section 515.138, by issuing, delivering, or offering to issue or deliver any policy of fire insurance on property in this state other or different from the standard form, herein provided for, shall be guilty of a simple misdemeanor, ~~and-upon-complaint-made-by-the-commissioner-of-insurance,-or-by-any-citizen-of-this-state,-shall, upon-conviction-thereof,-be-punished-by-a-fine-of-not-less~~

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~~than-fifty-dollars-nor-more-than-one-hundred-dollars-for-the first-offense,-and-not-less-than-one-hundred-dollars-nor-more than-two-hundred-dollars-for-each-subsequent-offense,~~ but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the same, and such company shall, until the payment of such fine, be disqualified from doing any insurance business in this state; but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the same.

Sec. 442. Section five hundred fifteen point one hundred forty-five (515.145), Code 1975, is amended to read as follows:

515.145 VIOLATIONS. Any violation of section 515.142 shall ~~be-punished-by-a-fine-of-not-exceeding-five-hundred dollars~~ constitute a simple misdemeanor.

Sec. 443. Section five hundred eighteen A point forty-one (518A.41), Code 1975, is amended to read as follows:

518A.41 AGENTS TO BE LICENSED. No person or corporation shall solicit any application for insurance for any association in this state witout having procured from the commissioner of insurance a license authorizing him to act as agent. Violation of this provision shall ~~be-punished-by-a-fine-not exceeding-twenty-five-dollars-per-day~~ constitute a serious misdemeanor.

Sec. 444. Section five hundred twenty point fourteen (520.14), Code 1975, is amended to read as follows:

520.14 VIOLATIONS--EXCEPTIONS. Any attorney who shall exchange any contracts of insurance of the kind and character specified in this chapter, or any attorney or representative of such attorney, who shall solicit or negotiate any applications for the same without the attorney having first complied with the foregoing provisions, shall be deemed guilty of a simple misdemeanor ~~and,-upon-conviction,-shall-be-subject to-a-fine-of-not-less-than-one-hundred-dollars-nor-more-than five-hundred-dollars~~. For the purpose of organization and

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upon issuance of permit by the commisioner of insurance, powers of attorney and applications for such contracts may be solicited without compliance with the provisions of this chapter, but no attorney, agent, or other person shall make any such contracts of indemnity until all of the provisions of this chapter shall have been complied with.

Sec. 445. Section five hundred twenty-one point fifteen (521.15), Code 1975, is amended to read as follows:

521.15 VIOLATIONS. Any officer, director or stockholder of any company or companies, as defined in section 521.1, violating or consenting to the violation of any of the provisions of sections 521.2 to 521.13 shall be ~~punished by a fine of not less than one thousand dollars, or by imprisonment in the county jail for not less than one year, or by both such fine and imprisonment in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 446. Section five hundred twenty-one A point ten (521A.10), Code 1975, is amended to read as follows:

521A.10 CRIMINAL PROCEEDINGS. Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this chapter, the commissioner may cause criminal proceedings to be instituted by the district court for the county in which the principal office of the insurer is located or if such insurer has no such office in the state, then by the district court of Polk county against such insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this chapter ~~may be fined not more than one hundred dollars~~ commits a serous misdemeanor. Any individual who willfully violates this chapter ~~may be fined not more than one thousand dollars or, if such willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned not more than two years or both~~ commits a serious misdemeanor.

Sec. 447. Section five hundred twenty-two point five

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(522.5), Code 1975, is amended to read as follows:

522.5 VIOLATIONS. Any person acting as agent or otherwise representing any insurance company or association, in violation of the provisions of section 522.1, shall be ~~liable to a fine of twenty-five dollars for each day he shall so act~~ guilty of a serious misdemeanor.

Sec. 448. Section five hundred twenty-three point two (523.2), Code 1975, is amended to read as follows:

523.2 CONDITIONS. The commissioner of insurance shall promulgate such rules with respect to the solicitation and voting of proxies as will in his opinion best protect the interests of all stockholders or policyholders from whom they are solicited. Any violation of any rule promulgated hereunder shall be deemed a simple misdemeanor ~~and punishable accordingly~~.

Sec. 449. Section five hundred twenty-three A point four (523A.4), Code 1975, is amended to read as follows:

523A.4 PENALTY. Any person, firm or corporation, or any agent or representative thereof, who shall violate any of the provisions of sections 523A.1 and 523A.2, or who shall aid and abet in such violation, shall be deemed guilty of ~~a~~ an aggravated misdemeanor.

Sec. 450. Section five hundred twenty-four point one thousand six hundred one (524.1601), subsection one (1), Code 1975, is amended to read as follows:

1. A director, officer or employee of a state bank who willfully violates any of the provisions of subsection 4 of section 524.612, section 524.613, subsection 2 of section 524.706, insofar as such subsection incorporates subsection 4 of section 524.612, or section 524.710, shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both,~~ plus, in the following circumstances, an additional fine or fines equal to:

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Sec. 451. Section five hundred twenty-four point one thousand six hundred one (524.1601), subsections two (2), three (3), and four (4), Code 1975, are amended to read as follows:

2. A director or officer who willfully makes or receives a loan in violation of subsection 1 of section 524.612, or subsection 1 of section 524.706, shall be guilty of a serious misdemeanor and~~,-upon-conviction-thereof,~~ shall be subject to ~~imprisonment-in-the-county-jail-for-a-period-not-exceeding-one-year-or-a-fine-not-exceeding-one-thousand-dollars,-or-both,-plus~~ an additional fine equal to that amount of the loan in excess of the limitation imposed by such subsections, and shall be forever disqualified from acting as a director or officer of any state bank. For the purpose of this subsection, amounts which are treated as obligations of an officer or director pursuant to subsection 5 of section 524.612, shall be considered in determining whether the loan or extension of credit is in violation of subsection 1 of section 524.612 and subsection 1 of section 524.706.

3. A director, officer or employee of a state bank who willfully makes or receives a loan or extension of credit of funds held by the state bank as fiduciary, in violation of subsection 4 of section 524.1002, shall be guilty of a serious misdemeanor and~~,-upon-conviction-thereof~~ shall be subject to ~~imprisonment-in-the-county-jail-for-a-period-not-exceeding-one-year-or-a-fine-not-exceeding-one-thousand-dollars,-or-both,-plus~~ a further fine equal to the amount of the loan or extension of credit made in violation of subsection 4 of section 524.1002, and shall be forever disqualified from acting as a director, officer or employee of any state bank.

4. A director, officer or employee of a state bank who willfully violates, or participates in the violation of, section 524.814, or section 524.819, shall be guilty of a serious misdemeanor ~~and,-upon-conviction-thereof,-shall-be~~

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~~subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both.~~

Sec. 452. Section five hundred twenty-four point one thousand six hundred three (524.1603), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who willfully engages in the business of receiving money for deposit or transacts the business generally done by banks, or who willfully establishes a place of business for such purposes, in violation of subsection 1 of section 524.107, shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to:~~

~~a. In the case of an individual, imprisonment in the county jail for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both.~~

~~b. In the case of any other person, to a fine not exceeding five thousand dollars.~~

Sec. 453. Section five hundred twenty-four point one thousand six hundred four (524.1604), subsections one (1) and three (3), Code 1975, are amended to read as follows:

1. Any person whose duty it is to make statements or file reports as may be required by this chapter, and who willfully neglects or refuses to perform such duty, shall be guilty of a simple misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars~~.

3. Any officer or employee who violates section 524.709 shall be guilty of a simple misdemeanor ~~and shall, upon conviction thereof, be subject to imprisonment in the county jail for a period not to exceed one year or a fine not exceeding one thousand dollars, or both~~.

Sec. 454. Section five hundred twenty-four point one thousand six hundred five (524.1605), Code 1975, is amended to read as follows:

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524.1605 FALSE STATEMENTS, REPORTS AND FRAUDULENT ACTS.

1. Any director, officer or employee of a state bank who shall knowingly subscribe or make any false statements or false entries in the books, records, or memoranda of a state bank, or knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine its condition, or shall knowingly subscribe or make false reports, or shall knowingly divert the funds of the state bank to other purposes than those authorized by law, or who commits any other act with intent to defraud the state bank or any other person shall~~, upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding five years or a fine not exceeding ten thousand dollars, or both~~ be guilty of a class "C" felony, and shall be forever disqualified from acting as a director, officer or employee of any state bank.

2. Any officer or employee of a state bank who, with intent to defraud the state bank or any other person, certifies any check when there are not sufficient funds on hand available to the credit of the drawer of said check to pay the same, or who issues any certificate of deposit when funds have not been deposited equal to the amount of such certificate, or who, with intent to defraud the state bank or any other person, draws any draft or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation or instrument, or participates in, or receives directly or indirectly any money, property or other benefit from any transaction, loan, contract or other act of a state bank shall~~, upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding five years, or a fine not exceeding ten thousand dollars, or both, or be subject to imprisonment in the county jail for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both~~ be guilty of a class "C" felony, and shall, in either event be forever disqualified from act-

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ing as an officer or employee of any state bank.

Sec. 455. Section five hundred twenty-four point one thousand six hundred six (524.1606), Code 1975, is amended to read as follows:

524.1606 FRAUDULENT ADVERTISING OR NOTICE. A state bank shall not publish, disseminate or distribute any advertising or notice containing any false, misleading or deceptive statements concerning the rates, terms or conditions on which loans are made or deposits are received, any charge which the state bank is authorized to impose pursuant to this chapter, or the financial condition of the state bank. Any officer or employee of a state bank who willfully violates the provisions of this section shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both~~ fraudulent practice.

Sec. 456. Section five hundred twenty-four point one thousand six hundred seven (524.1607), Code 1975, is amended to read as follows:

524.1607 FALSE STATEMENT FOR CREDIT. Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person, or any other person in which such person is interested or for whom such person is acting, with the intent that such statement shall be relied upon by a bank for the purpose of procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dol-~~

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~~lars,-or-both~~ fraudulent practice.

Sec. 457. Section five hundred twenty-four point one thousand six hundred eight (524.1608), Code 1975, is amended to read as follows:

524.1608 PENALTY FOR ACCEPTING DEPOSITS WHILE INSOLVENT. If a state bank shall accept any deposit or renew any certificate of deposit in violation of subsection 5 of section 524.805, any officer or employee knowing of such insolvency who willfully receives, accepts or renews or is accessory to or otherwise knowingly permits such acceptance shall, ~~upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding ten years or a fine not exceeding ten thousand dollars, or both, or subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both,~~ be guilty of a fraudulent practice and shall, in either event be forever disqualified from acting as an officer or employee of any state bank.

Sec. 458. Section five hundred twenty-four point one thousand six hundred nine (524.1609), Code 1975, is amended to read as follows:

524.1609 FALSE STATEMENTS CONCERNING STATE BANKS. Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false statement concerning any state bank which imputes, or tends to impute, insolvency, unsound financial condition or financial embarrassment, or which may tend to cause or provoke, or aid in causing or provoking, a general withdrawal of deposits from such state bank, or which may otherwise injure or tend to injure the business or good will of such state bank, shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~ simple misdemeanor.

Sec. 459. Section five hundred twenty-four point one

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thousand six hundred ten (524.1610), Code 1975, is amended to read as follows:

524.1610 VIOLATION OF PROHIBITION AGAINST RECEIVING A COMMISSION FOR ORGANIZING A STATE BANK. Any person violating the provisions of section 524.311 shall be guilty of a simple misdemeanor ~~and shall upon conviction thereof be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both, plus an additional fine equal to twice the amount of such commission or bonus.~~

Sec. 460. Section five hundred twenty-four point one thousand six hundred eleven (524.1611), Code 1975, is amended to read as follows:

524.1611 OFFENSES INVOLVING EMPLOYEES OF DEPARTMENT OF BANKING.

1. Any person violating the provisions of subsection 1 of section 524.211 shall be guilty of a ~~misdemeanor and shall, upon conviction thereof, be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~ fraudulent practice, and shall be subject to a further fine of a sum equal to the amount of the value of the property given or received or the money so loaned or borrowed. The deputy superintendent, an assistant or examiner convicted of a violation of such subsection shall be immediately discharged from employment and shall be forever disqualified from holding any position in the department of banking.

2. Any examiner violating the provision of section 524.212 shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~. Any examiner convicted of a violation of section 524.212 shall be immediately discharged from employment and shall be forever disqualified from holding any position in the department of banking.

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Sec. 461. Section five hundred twenty-four point one thousand eight hundred seven (524.1807), Code 1975, is amended to read as follows:

524.1807 PENALTIES. Any bank holding company which willfully violates any provision of sections 524.1801 to 524.1806 shall, upon conviction, be fined not less than one hundred dollars nor more than one thousand dollars for each day during which the violation continues. Any individual who willfully participates in a violation of any provisions of sections 524.1801 to 524.1806 shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~.

Sec. 462. Section five hundred thirty-three point three (533.3), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person, firm, corporation, copartnership, or association, upon conviction of the violation of the provisions of this section shall be ~~fined not more than five hundred dollars or imprisoned not more than one year or both~~ guilty of a serious misdemeanor; and may be enjoined from such continued use of said words, advertising or other representation.

Sec. 463. Section five hundred thirty-three point thirty-one (533.31), Code 1975, is amended to read as follows:

533.31 PENALTY FOR FALSIFICATION. Any director, officer, agent, employee, or clerk of any credit union who shall knowingly subscribe or make any false statements or false entries in the books thereof, or knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine its condition, or shall knowingly subscribe and make false reports, or shall knowingly divert the funds of the credit union to other objects than those authorized by law, shall be ~~punished by imprisonment in the penitentiary not more than five years, or in the county jail not more than~~

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~~one-year,-or-by-fine-of-not-more-than-one-thousand-dollars or-by-both-such-fine-and-imprisonment~~ guilty of a fraudulent practice and be forever after barred from holding any office created by this chapter.

Sec. 464. Section five hundred thirty-three A point thirteen (533A.13), Code 1975, is amended to read as follows:

533A.13 LICENSE MANDATORY TO BUSINESS. It shall be unlawful for an individual, partnership, unincorporated association, agency or corporation to engage in the business of debt management without first obtaining a license as required by this chapter. Any individual, partnership, unincorporated association, agency, corporation or any other group of individuals, however organized, or any owner, partner, member, officer, director, employee, agent or representative thereof who shall willfully or knowingly engage in the business of debt management without the license required by this chapter, shall be guilty of a serious misdemeanor ~~and-upon-conviction-thereof-shall-be-fined-not-more-than-one-thousand-dollars for-each-violation-or-imprisoned-in-the-county-jail-for-not more-than-six-months,-or-by-both-such-fine-and-imprisonment~~.

Sec. 465. Section five hundred thirty-three B point five (533B.5), Code 1975, is amended to read as follows:

533B.5 PENALTY. Any person violating any provision of this chapter shall be guilty of a serious misdemeanor ~~and shall-be-fined-not-more-than-one-thousand-dollars~~. Each transaction in violation of this chapter and each day that a violation continues shall be a separate offense.

Sec. 466. Section five hundred thirty-four point thirteen (534.13), Code 1975, is amended to read as follows:

534.13 DEFAMATION OF INSTITUTIONS PROHIBITED--MALICIOUS CIRCULATION OF REPORTS. Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false report concerning any building and loan or savings and loan association which imputes or tends to impute, insolvency or unsound financial condition or financial

embarrassment, or which may tend to cause or provoke or aid in causing or provoking a general withdrawal of funds from such association, or which may otherwise injure or tend to injure the business or good will of such building and loan or savings and loan association, shall be guilty of a ~~felony and shall be fined not more than five thousand dollars or be imprisoned for not more than five years in the penitentiary or be punished by both such fine and imprisonment~~ serious misdemeanor.

Sec. 467. Section five hundred thirty-four point fifty-seven (534.57), Code 1975, is amended to read as follows:

534.57 SALE OF STOCK IF UNAUTHORIZED FOREIGN COMPANY. It shall be unlawful for an agent, solicitor or other person to sell stock or solicit share accounts or solicit persons to subscribe for same in any association named in section 534.50 which has not been authorized to do business in this state, and any person convicted of so doing shall be ~~punished by a fine of not less than fifty nor more than two hundred dollars and shall be committed to the county jail until the fine and costs are paid~~ guilty of a serious misdemeanor.

Sec. 468. Section five hundred thirty-four point sixty-four (534.64), Code 1975, is amended to read as follows:

534.64 CRIMINAL OFFENSES. If any officer, director, or agent of any building and loan or savings and loan association shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, he shall be guilty of perjury. If any director of any such association shall vote to declare a dividend greater than has been earned; or if any officer or director or any agent or employee of any such association shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person

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in the name of such association without being authorized to do so by the board of directors in pursuance of its lawful power, he shall be guilty of a fraudulent practice; or if any such officer, director, agent, or employee shall embezzle or convert to his own use, or shall use or pledge for his own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, he shall be guilty of theft; or if he shall knowingly do or attempt to do business for such association that has not procured and does not hold the certificate of authority therefor as in this chapter provided, he shall be guilty of a serious misdemeanor; or if he shall knowingly make or cause to be made any false entries in the books of the association, or shall, with the intent to deceive any person making an examination in this chapter required to be made, exhibit to the person making the examination any false entry, paper, or statement, he shall be guilty of a fraudulent practice; or if he shall knowingly do or solicit business for any building and loan or savings and loan association which has not procured the required certificate therefor, he shall be ~~fined in any sum not exceeding ten thousand dollars, or imprisoned in the penitentiary not exceeding ten years, or punished by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 469. Section five hundred thirty-four point sixty-six (534.66), subsection twelve (12), Code 1975, is amended to read as follows:

12. CRIMINAL OFFENSES. If any officer or agent of any such building and loan association, or any person conducting the business thereof, shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, he shall be guilty of perjury and punished accordingly. And if any officer, agent or employee of any such association, or any person transacting the business thereof, shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay

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of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person in the name of such association without being authorized so to do, he shall be guilty of a fraudulent practice; or if any such officer, agent, or employee of such association, or any person transacting the business thereof, shall embezzle, convert to his own use, or shall use or pledge for his own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, ~~or~~ he shall be guilty of theft; or if he shall knowingly solicit, transact, or attempt to transact any business for any such association which has not procured and does not hold the certificate of authority from the auditor of state to transact business in this state as provided herein, he shall be guilty of a serious misdemeanor; or if he shall knowingly make, or cause to be made, any false entries in the books of the association, or shall, with intent to deceive any person making an examination of such association, as herein provided, exhibit to the person making the examination any false entry, paper, or statement, he shall be ~~fined in a sum not exceeding ten thousand dollars or imprisoned in the penitentiary not exceeding ten years or punished by both such fine and imprisonment~~ guilty of a fraudulent practice.

Sec. 470. Section five hundred thirty-five point six (535.6), Code 1975, is amended to read as follows:

535.6 INTEREST IN EXCESS OF TWO PERCENT PER MONTH. Every person or persons, company, corporation, or firm, and every agent of any person, persons, company, corporation, or firm, who shall take or receive, or agree to take or receive, directly or indirectly, by means of commissions or brokerage charges, or otherwise, for the forbearance or use of money in the sum or amount of more than five hundred dollars a rate greater than two percent per month, shall be deemed guilty

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of a serious misdemeanor~~,-and,-on-conviction-thereof,-shall be-punished-by-a-fine-of-not-less-than-twenty-five-dollars, nor-more-than-five-hundred-dollars,-or-by-imprisonment-in the-county-jail-for-a-period-of-not-less-than-thirty-days nor-more-than-ninety-days~~. Nothing herein contained shall be construed as authorizing a higher rate of interest than is now provided by law. Provided, however, this section shall not apply to lawful loans under chapter 536.

Sec. 471. Section five hundred thirty-six point nineteen (536.19), Code 1975, is amended to read as follows:

536.19 VIOLATIONS. Any person, copartnership, association, or corporation and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any of the provisions of sections 536.1, 536.12, 536.13 or 536.14, which are not also violations of article 5, part 3, of the Iowa consumer credit code, shall be guilty of a serious misdemeanor~~,-and-upon conviction-thereof,-shall-be-punishable-by-a-fine-of-not-more than-five-hundred-dollars-or-by-imprisonment-of-not-more-than six-months,-or-by-both-such-fine-and-imprisonment,-in-the discretion-of-the-court~~. Violations of the Iowa consumer credit code shall be subject to the penalties provided therein.

Sec. 472. Section five hundred thirty-six A point twenty-seven (536A.27), Code 1975, is amended to read as follows:

536A.27 PENALTY. If any officer, director or agent of any corporation engaged in the business of operating an industrial loan company shall violate any of the provisions of this chapter which are not also violations of the Iowa consumer credit code; or if any person individually or as a partner, or officer, director or agent of any corporation shall engage in the business of operating an industrial loan company without obtaining the license required by section 536A.3, when that person is not required by section 537.2301 to have a license, he shall be guilty of a serious misdemeanor ~~and-upon-conviction-thereof-shall-be-punishable-by-a-fine~~

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~~of not more than five hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.~~ Violation of the Iowa consumer credit code shall be subject to the penalties provided therein.

Sec. 473. Section five hundred thirty-seven point five thousand three hundred one (537.5301), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. A person who willfully and knowingly makes charges in excess of those permitted by the provisions of article 2, part 4, applying to supervised loans, is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding one thousand dollars, or to imprisonment not exceeding one year, or both.~~

2. A person who, in violation of the provisions of this Act applying to authority to make supervised loans under section 537.2301, willfully and knowingly engages without a license in th business of making supervised loans, or of taking assignments of and undertaking direct collection of payments from and enforcement of rights against consumers arising from supervised loans, is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding one thousand dollars, or to imprisonment not exceeding one year, or both.~~

Sec. 474. Section five hundred thirty-seven point five thousand three hundred two (537.5302), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

A person is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding five thousand dollars, or to imprisonment not exceeding one year, or both~~, if he willfully and knowingly does any of the following:

Sec. 475. Section five hundred forty-two point eleven (542.11), Code 1975, is amended to read as follows:

542.11 PENALTIES--MISDEMEANOR. Any person who engages in business as a grain dealer without obtaining a license or any person in violation of any other provision of this

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chapter, or any grain dealer who refuses to permit inspection of his premises, books, accounts or records as provided in this chapter, shall be guilty of a simple misdemeanor ~~and, upon conviction, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment for each offense~~. Each day that any violation continues shall constitute a separate offense. Any person violating the provisions of this chapter may be restrained by an injunction.

Sec. 476. Section five hundred forty-three point thirty-six (543.36), Code 1975, is amended to read as follows:

543.36 PENALTIES--MISDEMEANOR. Every person who violates or fails to comply with any of the provisions of this chapter or to comply with any lawfully authorized order, direction, demand, or rule or regulation of the commission shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days or by both such fine and imprisonment~~.

Sec. 477. Section five hundred forty-six A point nine (546A.9), Code 1975, is amended to read as follows:

546A.9 PENALTIES. Any person who shall offer new merchandise for sale at public auction without first securing a license as herein provided, or who shall offer for sale new merchandise different from that shown by, or in excess of the amount and value of, the inventories filed with the application for license, shall be guilty of a serious misdemeanor ~~and may be punished by a fine not to exceed three hundred dollars or by imprisonment in the county jail not to exceed ninety days~~.

Sec. 478. Section five hundred forty-seven point four (547.4), Code 1975, is amended to read as follows:

547.4 PENALTY. Any person violating the provisions of this chapter shall, ~~upon conviction,~~ be ~~punishable by a fine~~

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~~of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a term not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 479. Section five hundred fifty-one point four (551.4), Code 1975, is amended to read as follows:

551.4 PENALTY. Any person, firm, company, association, or corporation violating any of the provisions of sections 551.1 and 551.2, and any officer, agent, or receiver of any firm, company, association, or corporation, or any member of the same, or any individual~~, found guilty of a violation thereof,~~ violating any of such provisions shall be ~~fined not less than five hundred dollars nor more than five thousand dollars, or be imprisoned in the county jail not to exceed one year, or suffer both penalties~~ guilty of a serious misdemeanor.

Sec. 480. Section five hundred fifty-one A point three (551A.3), subsection one (1), Code 1975, is amended to read as follows:

1. It shall be unlawful for any wholesaler or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler or retailer, as the case may be, as defined in this chapter. Any wholesaler or retailer who violates the provisions of this section shall be guilty of a simple misdemeanor ~~and be punishable by fine of not less than one hundred dollars, nor more than five hundred dollars~~.

Sec. 481. Section five hundred fifty-two point two (552.2), Code 1975, is amended to read as follows:

552.2 UNLAWFUL ACTS. It shall be a public offense for any corporation, association, copartnership, person or persons, or agent to conduct, keep, maintain or cause to be conducted, kept or maintained, within this state, any bucket shop. Any corporation, person or persons, or agent whether acting individually or as a member, or as an officer, agent, or employee of any corporation, association, or copartnership,

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who shall conduct, keep, maintain, or assist in the conducting, keeping or maintaining of any bucket shop within this state shall~~,-upon-conviction-thereof,~~ be ~~fined-in-a-sum-not-to exceed-one-thousand-dollars-or-be-imprisoned-in-the penitentiary-not-exceeding-two-years~~ guilty of a fraudulent practice.

Sec. 482. Section five hundred fifty-three point three (553.3), Code 1975, is amended to read as follows:

553.3 PENALTY. Any corporation, company, firm, or association violating any of the provisions of sections 553.1 and 553.2 shall be ~~fined-not-less-than-five-hundred-nor-more than-five-thousand-dollas~~ guilty of an aggravated misdemeanor, and any president, manager, director, officer, agent, or receiver of any corporation, company, firm, or association, or any member of any corporation, company, firm, or association, or any individual, found guilty of a violation thereof, shall be ~~fined-not-less-than-five-hundred-nor-more-than-five thousand-dollars,-or-be-imprisoned-in-the-county-jail-not to-exceed-one-year,-or-both~~ punished accordingly.

Sec. 483. Section five hundred fifty-three point thirteen (553.13), Code 1975, is amended to read as follows:

553.13 VIOLATION--PENALTY. Any person, partnership, company, association, or corporation subject to the provisions of sections 553.10 to 553.12, inclusive, or any person, trust, combination, pool, or association, or any director, officer, lessee, receiver, trustee, employee, clerk, agent, or any person acting for or employed by them, who shall violate any of the provisions of section 553.10, or who shall aid and abet in such violation, shall be deemed guilty of ~~a~~ an aggravated misdemeanor~~,-and-shall-upon-conviction-thereof-be-fined-any-sum-not-less-than-five-hundred-dollars-and not-exceeding-two-thousand-dollars-or-imprisoned-in-the-county jail-for-a-period-not-exceeding-six-months,-or-both,-at-the discretion-of-the-court~~.

Sec. 484. Section five hundred fifty-three point seven-

teen (553.17), Code 1975, is amended to read as follows:

553.17 VIOLATION. Any person who engages in a gift enterprise such as is defined in section 553.16 or who advertises the same in any manner or who in furtherance of such scheme, as an inducement to purchasers, issues in connection with the sale of any merchandise or other property any such ticket or stamp purporting to be redeemable in some indefinite article not described thereon, only when presented with a collection of other stamps or tickets of like kind by some other party to such scheme, and which unless presented in the manner aforesaid is not redeemable at all, shall each and all be guilty of a simple misdemeanor.

Sec. 485. Section five hundred fifty-three point twenty-one (553.21), Code 1975, is amended to read as follows:

553.21 VIOLATION--PENALTY. Any person, partnership, company, association, or corporation subject to the provisions of sections 553.19 and 553.20, or any person, trust, combination, pool, or association, or any director, officer, lessee, receiver, trustee, employee, clerk, agent, or any person acting for or employed by them or either of them, who shall violate any of the provisions of section 553.19, or who shall aid and abet in such violation, shall be deemed guilty of a an aggravated misdemeanor~~, and shall upon conviction thereof be fined any sum not less than five hundred dollars and not exceeding two thousand dollars, or imprisoned in the county jail for a period not exceeding six months, or both, at the discretion of the court~~.

Sec. 486. Section five hundred fifty-six point twenty-five (556.25), Code 1975, is amended to read as follows:

556.25 PENALTIES.

1. Any person who willfully fails to render any report or perform other duties required under this chapter, shall be ~~punished by a fine of twenty-five dollars for each day such report is withheld, but not more than five hundred dol-~~

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~~lars~~ guilty of a simple misdemeanor.

2. Any person who willfully refuses to pay or deliver abandoned property to the treasurer of state as required under this chapter shall be ~~punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or imprisonment for not more than six months, or both, in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 487. Section five hundred fifty-eight point forty (558.40), Code 1975, is amended to read as follows:

558.40 LIABILITY OF OFFICER. Any officer, who knowingly misstates a material fact in either of the certificates mentioned in this chapter, shall be liable for all damages caused thereby, and shall be guilty of a serious misdemeanor~~, and fined any sum not exceeding the value of the property conveyed or otherwise affected by the instrument on which such certificate is endorsed~~.

Sec. 488. Section five hundred sixty-six A point nine (566A.9), Code 1975, is amended to read as follows:

566A.9 PENALTY. Any person, firm or corporation violating any of the provisions of this chapter, shall~~, upon conviction,~~ be ~~punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 489. Section five hundred seventy point nine (570.9), Code 1975, is amended to read as follows:

570.9 SALE OF CROPS HELD BY LANDLORD'S LIEN. If any tenant of farm lands, with intent to defraud, shall sell, conceal, or in any manner dispose of any of the grain, or other annual products thereof upon which there is a landlord's lien for unpaid rent, without the written consent of the landlord, he shall be guilty of ~~larceny and punished accordingly~~ theft.

Sec. 490. Section five hundred eighty point three (580.3), Code 1975, is amended to read as follows:

580.3 SALE OR REMOVAL PROHIBITED--PENALTY. It shall be unlawful to sell, exchange, or remove permanently from the county any animal subject to the lien herein provided for,

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without the written consent of the holder of such lien, and any person violating this provision, shall~~,-on-conviction be punished-by-a-fine-of-not-less-than-twenty-five-dollars nor-more-than-fifty-dollars~~ guilty of a simple misdemeanor.

Sec. 491. Section five hundred ninety-five point eight (595.8), Code 1975, is amended to read as follows:

595.8 CONSENT OF PARENT. If either applicant for a license is a minor, a certificate in writing of the parents or guardian, as the case may be, of consent, as provided in section 595.3, must be filed in the office of the clerk, and be acknowledged by them or proven to be genuine, and a memorandum thereof entered in the license book. The false making of such certificate shall ~~be-punishable-as-forgery~~ constitute a serious misdemeanor.

Sec. 492. Section five hundred ninety-five point nine (595.9), Code 1975, is amended to read as follows:

595.9 VIOLATIONS. If the clerk issues a license in violation of the provisions of section 595.8, or if a marriage is solemnized without its being procured, the clerk so issuing the same, and the parties married, and all persons aiding them, are guilty of a simple misdemeanor.

Sec. 493. Section five hundred ninety-six point six (596.6), Code 1975, is amended to read as follows:

596.6 PENALTY. Any clerk of the district court who shall unlawfully issue a license to marry to any person who fails to present and file the certificate as required in this chapter, and any person or persons who shall disclose or falsify any matter relating or pertaining to the examination of or certificate about any applicant for license to marry or clinical and laboratory tests taken by any party to a proposed marriage, except as may be required by law, and any person who shall obtain a license to marry contrary to the provisions of this chapter, shall be guilty of a simple misdemeanor ~~and-upon-conviction-thereof-shall-be-punished-by-a fine-not-to-exceed-one-hundred-dollars-or-by-imprisonment~~

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~~in-the-county-jail-not-to-exceed-thirty-days~~.

Sec. 494. Section five hundred ninety-eight point twenty-three (598.23), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any employer who dismisses an employee due to the entry of an assignment order commits a ~~public-offense-and-upon-conviction-shall-be-fined-not-more-than-one-hundred-dollars~~ simple misdemeanor.

Sec. 495. Section five hundred ninety-eight point twenty-six (598.26), Code 1975, is amended to read as follows:

598.26 RECORD--IMPOUNDING--VIOLATION INDICTABLE. The record and evidence in all cases where a marriage dissolution is sought shall be closed to all but the court and its officers, and access thereto shall be refused until a decree of dissolution has been entered. 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. No officer or other person shall permit a copy of any of the testimony, or pleading, or the substance thereof, to be made available to any person other than a party or attorney to the action. Nothing in this section shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure. Violation of the provisions of this section shall be a ~~public-offense,-punishable-by-a-fine-of-not-more-than-one-hundred-dollars,-or-imprisonment-in-the-county-jail-not-more-than-thirty-days,-or-by-both-such-fine-and-imprisonment~~ serious misdemeanor.

Sec. 496. Section five hundred ninety-eight point twenty-seven (598.27), Code 1975, is amended to read as follows:

598.27 REMARRIAGE. In every case in which a marriage dissolution is decreed, neither party shall marry again within a year from the date of the filing of said decree unless permission to do so is granted by the court. Nothing herein contained shall prevent the persons whose marriage has been

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dissolved from remarrying each other. Any person marrying contrary to the provisions of this section shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished accordingly~~.

Sec. 497. Section six hundred point ten (600.10), Code 1975, is amended to read as follows:

600.10 DISCLOSURE--PENAL PROVISIONS. Every person, excepting adopting parents or adopted child, who discloses any information contained in any adoption papers or proceedings except as may be authorized by order of court and every person who violates any of the provisions of this chapter or who intentionally shall make any false statements with reference to the matters contained herein, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished accordingly~~.

Sec. 498. Section six hundred one D point seven (601D.7), Code 1975, is amended to read as follows:

601D.7 PENALTY FOR DENYING RIGHTS. Any person, firm, or corporation, or the agent of any person, firm, or corporation, who denies or interferes with the rights of any person under this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than two hundred dollars~~.

Sec. 499. Section six hundred one E point five (601E.5), Code 1975, is amended to read as follows:

601E.5 PENALTY. Any person who is not qualified as a handicapped or paraplegic person and uses a distress flag as provided in this chapter or for any other purpose is guilty of a simple misdemeanor ~~and punishable by a fine of not more than one hundred dollars or thirty days in jail~~.

Sec. 500. Section six hundred one G point twenty-two (601G.22), Code 1975, is amended to read as follows:

601G.22 PENALTIES. A person who willfully obstructs or hinders the lawful actions of the citizens' aide or his staff, or who willfully misleads or attempts to mislead the citizens'

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aide in his inquires, shall be ~~subject to a fine of not more than one thousand dollars~~ guilty of a simple misdemeanor.

Sec. 501. Section six hundred two point sixty (602.60), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Judicial magistrates shall have jurisdiction of ~~nonindictable~~ simple misdemeanors, including traffic and ordinance violations, preliminary hearings, search warrant proceedings, and small claims. They shall also have jurisdiction to exercise the powers specified in sections ~~748.2,~~ 644.2 and 644.12 and the power to hear complaints, or preliminary informations, issue warrants, order arrests, make commitments and take bail. They shall have power to act any place within the district as directed, and venue shall be the same as in other district court proceedings. In addition, judicial magistrates appointed pursuant to section 602.51 shall have jurisdiction of indictable misdemeanors, the jurisdiction provided for in section 231.3 when designated a judge of the juvenile court, and jurisdiction in civil actions for money judgments where the amount in controversy does not exceed three thousand dollars and while exercising that jurisdiction, judicial magistrates shall employ district judges' practice and procedure.

Sec. 502. Section six hundred two point sixty-two (602.62), Code 1975, is amended to read as follows:

602.62 PROCEDURE. The criminal procedure before judicial magistrates shall be as provided in ~~chapters 751, 754 to 763, 765, 766, and 768~~ chapter one (1), divisions four (IV), six (VI), eight (VIII), eleven (XI) of this Act, rules two (2) and thirty-three (33) through forty-seven (47), rules of criminal procedure, and chapter seven hundred fifty-nine (759) of the Code. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 503. Section six hundred seven point two (607.2), subsection two (2) Code 1975, is amended

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to read as follows:

2. Practicing attorneys~~,-physicians,-licensed-embalmers,-registered-nurses,-chiropractors,-osteopaths,-veterinarians,-registered-pharmacists,-dentists,-and-clergymen,-including-Christian-Science-practitioners-and-readers.~~

Sec. 504. Section six hundred seven point two (607.2) Code 1975, is amended by striking subsections three (3), four (4), five (5), and six (6).

Sec. 505. Section six hundred seven point four (607.4), Code 1975, is amended to read as follows:

607.4 FALSE EXCUSE--PROHIBITED REQUESTS. Any person who knowingly makes any false affidavit, statement, or claim, for the purpose of relieving himself or another from serving as a juror, or any person who requests the judges of election to return his name as such juror, shall be ~~punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not more than thirty days, or the court may punish such person as for contempt~~ guilty of a fraudulent practice.

Sec. 506. Section six hundred ten point twenty-one (610.21), Code 1975, is amended to read as follows:

610.21 UNLAWFUL RETENTION OF MONEY. An attorney who receives the money or property of his client in the course of his professional business, and refuses to pay or deliver it in a reasonable time, after demand, is guilty of a ~~misdemeanor~~ theft and punished accordingly.

Sec. 507. Section six hundred ten point forty-nine (610.49), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 508. Section six hundred seventeen point two (617.2), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

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 ~~may be fined by the court not exceeding ten dollars~~ shall be guilty of a simple misdemeanor, and he 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.

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Sec. 509. Section six hundred eighteen point two (618.2), Code 1975, is amended to read as follows:

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 him by law of any notice, report of proceedings or other matter whatsoever, shall be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days~~.

Sec. 510. Section six hundred twenty-two A point three (622A.3), subsection two (2), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

In civil cases, every court shall tax the cost of an interpreter the same as other court costs. In criminal cases, where the defendant is indigent, the interpreter shall be considered as a defendant's witness under ~~chapter 781~~ rule fourteen (14), rules of criminal procedure for the purpose of receiving fees, except that subpoenas shall not be required. If the proceeding is before an administrative agency, that agency shall provide such interpreter but may require that a party to the proceeding pay the expense thereof.

Sec. 511. Section six hundred twenty-four point fourteen (624.14), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

624.14 JUROR AS WITNESS--GROUNDS TO SET ASIDE VERDICT. If a juror has personal knowledge respecting a fact in controversy in a cause, he must declare the same in open court during the trial, and if, during the retirement of the jury, a juror declares any fact which could be evidence in the cause, as of his own knowledge, the jury must return into court, and the juror must be sworn as a witness and examined in the presence of the parties, if his evidence be admissible; and in support of a motion to set aside a verdict, proof of such declaration may be made by any juror.

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Sec. 512. Section six hundred twenty-seven point seventeen (627.17), Code 1975, is amended to read as follows:

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 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~~, and punished by a fine of not less than ten nor more than fifty dollars~~.

Sec. 513. Section six hundred fifty-seven point three (657.3), Code 1975, is amended to read as follows:

657.3 PENALTY--ABATEMENT. Whoever is convicted of erecting, causing, or continuing a public or common nuisance as provided in this chapter, or at common law when the same has not been modified or repealed by statute, where no other punishment therefor is specially provided, shall be ~~fined not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding one year,~~ guilty of an aggravated misdemeanor and the court, ~~with or without such fine,~~ may order such nuisance abated, and issue a warrant as hereinafter provided.

Sec. 514. Section six hundred sixty point eleven (660.11), Code 1975, is amended to read as follows:

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 ~~fined in any sum not exceeding five thousand dollars, and imprisoned~~

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~~in-the-county-jail-until-he-complies-therewith~~ shall be punished accordingly, and shall be further liable for the damages resulting to any person on account of his disobedience.

Sec. 515. Section six hundred sixty-three point twenty (663.20), Code 1975, is amended to read as follows:

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 him, he shall~~,-on-conviction,-be-imprisoned-in the-penitentiary-or-county-jail-not-more-than-one-year,-and fined-not-exceeding-one-thousand-dollars~~ be guilty of a serious misdemeanor, and any person knowingly aiding or abetting in any such act shall be subject to like punishment.

Sec. 516. Section six hundred sixty-six point six (666.6), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Such report must be full, true, and complete with reference to the matters therein contained, and of all things required by this section to be reported, and be under oath, and any officer failing to make such report shall be guilty of a simple misdemeanor.

Sec. 517. Section seven hundred thirteen B point six (713B.6), Code 1975, is amended to read as follows:

713B.6 PENALTY. Any seller who violates the provisions of this chapter shall be guilty of a simple misdemeanor.

Sec. 518. Section seven hundred forty point eighteen (740.18), Code 1975, is amended to read as follows:

740.18 PENALTY. Any person who violates any provision of sections 740.13 to 740.17, inclusive, shall be guilty of a serious misdemeanor ~~and-shall-be-punished-accordingly~~.

Sec. 519. Section seven hundred forty-nine B point seven (749B.7), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. Any person who willfully requests, obtains, or seeks to obtain criminal history data under false pretenses, or

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who willfully communicates or seeks to communicate criminal history data to any agency or person except in accordance with this chapter, or any person connected with any 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 ~~punished by a fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than two years, or by both fine and imprisonment~~ guilty of an aggravated misdemeanor. Any person w b knowingly, but without criminal purposes, communicates or seeks to communicate criminal history data except in accordance with this chapter shall ~~for each such offense be fined not more than one hundred dollars or be imprisoned not more than ten days~~ be guilty of a simple 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 ~~punished by a fine of not more than five thousand dollars or by imprisonment in the state penitentiary for not more than three years, or by both fine and imprisonment~~ 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 ~~fined not more than five hundred dollars or be imprisoned not more than six months, or both~~ guilty of a serious misdemeanor.

Sec. 520. Sections one hundred point thirty-seven (100.37), one hundred sixty point fouteen (160.14), two hundred twenty-three point three (223.3), two hundred forty-six point nine (246.9), two hundred forty-six point ten (246.10), two hundred forty-six point twenty-three (246.23), two hundred forty-seven point one (247.1), two hundred forty-seven point two (247.2),

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two hundred forty-seven point three (247.3), two hundred forty-seven point four (247.4), two hundred forty-seven point five (247.5), two hundred forty-seven point six (247.6), two hundred forty-seven point seven (247.7), two hundred forty-seven point eight (247.8), two hundred forty-seven point nine (247.9), two hundred forty-seven point ten (247.10), two hundred forty-seven point eleven (247.11), two hundred forty-seven point twelve (247.12), two hundred forty-seven point thirteen (247.13), two hundred forty-seven point fourteen (247.14), two hundred forty-seven point fifteen (247.15), two hundred forty-seven point sixteen (247.16), two hundred forty-seven point seventeen (247.17), two hundred forty-seven point eighteen (247.18), two hundred forty-seven point nineteen (247.19), two hundred forty-seven point twenty-four (247.24), two hundred forty-seven point twenty-five (247.25), two hundred forty-seven point twenty-six (247.26), two hundred forty-seven point twenty-seven (247.27), two hundred forty-seven point twenty-eight (247.28), two hundred forty-seven point thirty-three (247.33), two hundred forty-seven A point six (247A.6), two hundred forty-eight point three (248.3), two hundred fifty-two point nineteen (252.19), two hundred ninety-nine point twelve (299.12), three hundred twenty-one point seventy-six (321.76), three hundred twenty-one point seventy-seven (321.77), three hundred twenty-one point eighty (321.80), three hundred twenty-one point eighty-two (321.82), three hundred twenty-one point eighty-three (321.83), three hundred thirty-four point four (334.4), three hundred thirty-eight point ten (338.10), three hundred forty-three point six (343.6), three hundred fifty-six point thirty-six (356.36), four hundred forty-one point fifty-three (441.53), four hundred fifty-four point twenty-seven (454.27), four hundred seventy-four point forty-one (474.41), five hundred eleven point nineteen (511.19), five hundred fifty-two point three (552.3), six hundred to point fifteen (602.15), seven hundred thirteen point one (713.1), seven hundred thirteen point two (713.2),

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two hundred forty-seven point three (247.3), two hundred forty-seven point four (247.4), two hundred forty-seven point five (247.5), two hundred forty-seven point six (247.6), two hundred forty-seven point seven (247.7), two hundred forty-seven point eight (247.8), two hundred forty-seven point nine (247.9), two hundred forty-seven point ten (247.10), two hundred forty-seven point eleven (247.11), two hundred forty-seven point twelve (247.12), two hundred forty-seven point thirteen (247.13), two hundred forty-seven point fourteen (247.14), two hundred forty-seven point fifteen (247.15), two hundred forty-seven point sixteen (247.16), two hundred forty-seven point seventeen (247.17), two hundred forty-seven point eighteen (247.18), two hundred forty-seven point nineteen (247.19), two hundred forty-seven point twenty-four (247.24), two hundred forty-seven point twenty-five (247.25), two hundred forty-seven point twenty-six (247.26), two hundred forty-seven point twenty-seven (247.27), two hundred forty-seven point twenty-eight (247.28), two hundred forty-seven point thirty-three (247.33), two hundred forty-seven A point six (247A.6), two hundred forty-eight point three (248.3), two hundred fifty-two point nineteen (252.19), two hundred ninety-nine point twelve (299.12), three hundred twenty-one point seventy-six (321.76), three hundred twenty-one point seventy-seven (321.77), three hundred twenty-one point eighty (321.80), three hundred twenty-one point eighty-two (321.82), three hundred twenty-one point eighty-three (321.83), three hundred thirty-four point four (334.4), three hundred thirty-eight point ten (338.10), three hundred forty-three point six (343.6), three hundred fifty-six point thirty-six (356.36), four hundred forty-one point fifty-three (441.53), four hundred fifty-four point twenty-seven (454.27), four hundred seventy-four point forty-one (474.41), five hundred eleven point nineteen (511.19), five hundred fifty-two point three (552.3), six hundred to point fifteen (602.15), seven hundred thirteen point one (713.1), seven hundred thirteen point two (713.2),

seven hundred thirteen point three (713.3), seven hundred thirteen point four (713.4), seven hundred thirteen point five (713.5), seven hundred thirteen point six (713.6), seven hundred thirteen point seven (713.7), seven hundred thirteen point eight (713.8), seven hundred thirteen point nine (713.9), seven hundred thirteen point ten (713.10), seven hundred thirteen point eleven (713.11), seven hundred thirteen point twelve (713.12), seven hundred thirteen point thirteen (713.13), seven hundred thirteen point fourteen (713.14), seven hundred thirteen point fifteen (713.15), seven hundred thirteen point sixteen (713.16), seven hundred thirteen point twenty-two (713.22), seven hundred thirteen point twenty-three (713.23), seven hundred thirteen point twenty-six (713.26), seven hundred thirteen point twenty-seven (713.27), seven hundred thirteen point twenty-eight (713.28), seven hundred thirteen point twenty-nine (713.29), seven hundred thirteen point thirty (713.30), seven hundred thirteen point thirty-one (713.31), seven hundred thirteen point thirty-two (713.32), seven hundred thirteen point thirty-three (713.33), seven hundred thirteen point thirty-four (713.34), seven hundred thirteen point thirty-five (713.35), seven hundred thirteen point thirty-six (713.36), seven hundred thirteen point thirty-seven (713.37), seven hundred thirteen point thirty-eight (713.38), seven hundred thirteen point thirty-nine (713.39), seven hundred thirteen point forty (713.40), seven hundred thirteen point forty-one (713.41), seven hundred thirteen point forty-two (713.42), seven hundred thirteen point forty-three (713.43), seven hundred forty point one (740.1), seven hundred forty point two (740.2), seven hundred forty point three (740.3), seven hundred forty point four (740.4), seven hundred forty point five (740.5), seven hundred forty point six (740.6), seven hundred forty point seven (740.7), seven hundred forty point eight (740.8), seven hundred forty point nine (740.9), seven hundred forty point ten (740.10), seven hundred forty point eleven (740.11), seven hundred forty point

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twelve (740.12), seven hundred forty point nineteen (740.19), seven hundred forty point twenty (740.20), seven hundred fifty-three point one (753.1), seven hundred fifty-three point two (753.2), seven hundred fifty-three point three (753.3), seven hundred fifty-three point four (753.4), seven hundred fifty-three point five (753.5), seven hundred fifty-three point six (753.6), seven hundred fifty-three point seven (753.7), seven hundred fifty-three point eight (753.8), seven hundred fifty-three point nine (753.9), seven hundred eighty-two point nine (782.9), seven hundred eighty-two point ten (782.10), and seven hundred eighty-two point eleven (782.11), Code 1975, are repealed.

Sec. 519. Chapters six hundred eighty-seven (687), six hundred eighty-eight (688), six hundred eighty-nine (689), six hundred ninety (690), six hundred ninety-one (691), six hundred ninety-two (692), six hundred ninety-three (693), six hundred ninety-four (694), six hundred ninety-five (695), six hundred ninety-six (696), six hundred ninety-seven (697), hundred ninety-eight (698), six hundred ninety-nine (699), en hundred (700), seven hundred one (701), seven hundred (702), seven hundred three (703), seven hundred four 4), seven hundred five (705), seven hundred six (706), en hundred seven (707), seven hundred eight (708), seven dred nine (709), seven hundred ten (710), seven hundred ven (711), seven hundred twelve (712), seven hundred rteen (714), seven hundred fifteen (715), seven hundred sixteen (716), seven hundred seventeen (717), seven hundred eighteen (718), seven hundred nineteen (719), seven hundred twenty (720), seven hundred twenty-one (721), seven hundred twenty-two (722), seven hundred twenty-three (723), seven hundred twenty-four (724), seven hundred twenty-five (725), seven hundred twenty-seven (727), seven hundred twenty-eight (728), seven hundred twenty-nine (729), seven hundred thirty-one (731), seven hundred thirty-one A (731A), seven hundred thirty-two (732), seven hundred thirty-four (734), seven

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hundred thirty-seven (737), seven hundred thirty-eight (738), seven hundred thirty-nine (739), seven hundred forty-one (741), seven hundred forty-two (742), seven hundred forty-three (743), seven hundrend forty-four (744), seven hundred forty-five (745), seven hundred forty-six (746), seven hundred forty-seven (747), seven hundred forty-eight (748), seven hundred fifty-one (751), seven hundred fifty-two (752), seven hundred fifty-four (754), seven hundred fifty-five (755), seven hundred fifty-six (756), seven hundred fifty-seven (757), seven hundred fifty-eight (758), seven hundred sixty (760), seven hundred sixty-one (761), seven hundred sixty-two (762), seven hundred sixty-three (763), seven hundred sixty-four (764), seven hundred sixty-five (765), seven hundred sixty-six (766), seven hundred sixty-seven (767), seven hundred sixty-eight (768), seven hundred sixty-nine (769), seven hundred seventy (770), seven hundred seventy-one (771), seven hundred seventy-two (772), seven hundred seventy-three (773), seven hundred seventy-four (774), seven hundred seventy-five (775), seven hundred seventy-six (776), seven hundred seventy-seven (777), seven hundred seventy-eight (778), seven hundred seventy-nine (779), seven hundred eighty (780), seven hundred eighty-one (781), seven hundred eighty-two (782), seven hundred eighty-three (783), seven hundred eighty-four (784), seven hundred eighty-five (785), seven hundred eighty-six (786), seven hundred eighty-seven (787), seven hundred eighty-eight (788), seven hundred eighty-nine (789), seven hundred eighty-nine A (789A), seven hundred ninety (790), seven hundred ninety-one (791), seven hundred ninety-three (793), seven hundred ninety-four (794), and seven hundred ninety-five (795), Code 1975, are repealed.

Sec. 520. APPLICABILITY TO OFFENSES COMMITTED BEFORE THE EFFECTIVE DATE.

1. Except as provided in subsections two (2) and three (3) of this section, this Act does not apply to offenses committed before its effective date. Prosecutions for offenses

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committed before the effective date are governed by the prior law, which is continued in effect for that purpose, as if this Act were not in force. For purposes of this section, an offense is committed before the effective date if any of the elements of the offense occurred before that date.

2. In any case pending on or commenced after the effective date of this Act, involving an offense committed before that date:

a. Upon the request of the defendant a defense or mitigation under this Act, whether specifically provided for herein or based upon the failure of the Act to define an applicable offense, shall apply; and

b. Upon the request of the defendant and the approval of the court:

(1) Procedural provision of this Act shall apply insofar as they are justly applicable; and

(2) The court may impose a sentence or suspend imposition of a sentence under the provisions of this Act applicable to the offense and the offender.

3. Provisions of this Act governing the release or discharge of prisoners, probationers, and parolees shall apply to persons under senence for offenses committed before the effective date of this Act, except that the minimum or maximum period of their detention or supervision shall in no case be increased, nor shall the provisions of this Act affect the substantive or procedural validity of any judgment of conviction entered before the effective date of this Act, regardless of the fact that appeal time has not run or that an appeal is pending.

END

H-3580

Amend Senate File 85, as passed by the Senate and reprinted, as follows:

1. Page 51A, by striking all after the word "PROGRAM." in line 12, all of lines 13, 14, 15, 16 and 17, and through the period in line 18 and inserting in lieu thereof the following:

"A training program to qualify persons in the safe use of firearms shall be provided by the issuing officer of permits, as provided in section two thousand four hundred ten (2410) of this division. The commissioner of public safety shall approve the training program, and the county sheriff or the commissioner of public safety conducting the training program within their representative jurisdiction may contact with a private organization or use the services of other agencies, or may use a combination of the two, to provide such training." A

2. Page 52, line 28, by inserting after the word "satisfied." the following: "However, the training program requirements in section two thousand four hundred seven (2407) of this division may be waived for renewal permits." B

3. Page 52, line 30, by inserting after the period the following: "Renewal permits shall be issued for a fee of one dollar."

H-3580 FILED APRIL 16, 1975 BY WYCKOFF of Benton

A- adopted as amended by 5855 3/17

B- adopted 3/17 (1234) 41-32

H-5019

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 216A, line 32, by striking the word "fifty" and inserting in lieu thereof the word "ninety".

H-5019 FILED JANUARY 21, 1976 BY SPEAR of Lee

adopted 4/1 (1534)

H-5020

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 21A, line 35, by inserting after the word "abuse" the words "in the first, second or third degree".

2. Page 21B, line 40, by inserting after the word "ransom" the words "or where the victim is subject to sexual abuse in the fourth degree".

H-5020 FILED - adopted JANUARY 21, 1976 3/15 (1257) BY SPEAR of Lee

H-5021

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 56, lines 29 through 31, by striking the words "as an ancestor, descendent, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew" and inserting in lieu thereof the words "as an ancestor, a brother or sister of the whole or half blood of an ancestor, a brother or sister of the whole or half blood, a descendent, a niece or a nephew".

H-5021 FILED JANUARY 21, 1976 BY SPEAR of Lee
Withdrawn 3/20 (1311)

H-5022

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 46, line 6, by striking the word "hearing" and inserting in lieu thereof the word "election". A

2. Page 46, line 9, by inserting after the word "candidate" the words "or for or against any issue". B

H-5022 FILED JANUARY 21, 1976 - Adopted BY SPEAR of Lee
3/17 (1226)

H-5023

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 5, line 35, by striking the words "or her".

2. Page 55, line 14, by striking the words "or her".

H-5023 FILED JANUARY 21, 1976 BY SPEAR of Lee
Withdrawn 3/10 (1071)

H-5024

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 216A, line 14, by striking the word "five" and inserting in lieu thereof the word "ten".

H-5024 FILED JANUARY 21, 1976 BY SPEAR of Lee
Ruled out of order with adoption of 5743 4/1 (1525)

H-5027

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 198, line 28, by inserting after the word "court" the words "with the approval of the county board of supervisors".

H-5027 FILED JANUARY 22, 1976 BY SPEAR of Lee
- Adopted 3/31 (1507)

H-5028

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 220B, line 40, by striking the words "ninety days" and inserting in lieu thereof the words "one year".

2. Page 221, line 3, by striking the words "ninety days" and inserting in lieu thereof the words "one year".

H-5028 FILED JANUARY 22, 1976 BY SPEAR of Lee

Ruled out of order with adoption of S744 4/1 (1523)

H-5033

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 6, by striking lines 21 and 22, and inserting in lieu thereof the following: "mouth or tongue of one person and genitalia of another person or by contact between genitalia of one person and the genitalia or anus of another person, or by contact between a finger of one person and the genitalia of another person for the purpose of arousing or satisfying the sexual desires of either, or by use of artificial".

H-5033 FILED JANUARY 22, 1976 BY SPEAR of Lee

adopted 3/10 (1072)

H-5034

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 19A, by striking lines 1 and 2 and inserting in lieu thereof the words "by either of the participants when the act is performed in any of the following circumstances:"

A Withdrawn 3/15 (S. 1149)

2. Page 19A, line 14, by striking the word "child" and inserting in lieu thereof the words "person under the age of sixteen years".

B Lost 3/16 (1167) 24-49

3. Page 20A, line 2, by striking the word "child" and inserting in lieu thereof the words "person under the age of fourteen years".

C. Ruled out of order with adoption of S761 3/16 (1169)

H-5034 FILED JANUARY 22, 1976 BY SPEAR of Lee

H-5035

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Strike page 20A, line 33 through page 20B, line 36, and inserting in lieu thereof the words "in a sex act."

H-5035 FILED JANUARY 22, 1976 BY SPEAR of Lee

adopted 3/16 (1171)

H-5036

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 77, by striking lines 22 through 26.

2. By renumbering the remaining sections and internal references.

H-5036 FILED JANUARY 22, 1976 BY SPEAR of Lee

Lost 3/25 24-45 (1409)

H-5037

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Strike page 225A, line 31 through page 225B, line 37.

H-5037 FILED JANUARY 22, 1976 BY SPEAR of Lee

Ruled out of order upon adoption of 6085 4/14 (1939)

H-5075

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 13B, by inserting after line 36 the following new subsection:

"The person kills a peace officer, correctional officer, public employee, or hostage while such person is imprisoned in a county jail or correctional institution under the jurisdiction of the department of social services."

H-5075 FILED JANUARY 29, 1976 BY SPEAR of Lee

Adopted as amended by 5696 3/11 (p. 1121)

H-5088

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 63, line 28, by inserting after the word "material" the words "applicable to minors".

2. Page 63, line 32, by inserting after the word "materials" the words "to minors".

3. Page 63, by inserting after line 35 the following:

"Any governing body of a city or county may enact an ordinance regulating the dissemination or exhibition of obscene material to adults. Such ordinance shall:

1. Contain the provisions of section two thousand eight hundred one (2801), subsections two (2), three (3), four (4), five (5), and seven (7) of this division.

2. Define obscene material as any material depicting or describing the genitals, sex acts, masturbation, excretory functions or sado-masochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material for adults, 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.

3. Not impose a penalty greater than those imposed by this division."

H-5088 FILED JANUARY 30, 1976

Withdrawn 4/21 (2066)

BY SPEAR of Lee
DIELEMAN of Marion
LINDEEN of Henry
WELLS of Linn
HANSEN of O'Brien
HOWELL of Floyd
MENNENGA of Clinton
EVANS of Grundy

H-5093

Amend Senate File 85, as passed by the Senate and reprinted, as follows:

1. Page 11, by striking lines 14 through 19.

H-5093 FILED BY WYCKOFF of Benton
FEBRUARY 2, 1976 Ruled out of order with adoption of 5426 3/10 (1076)

H-5104

Amend Senate File 85, as passed by the Senate and reprinted, as follows:

1. Page 11, by striking lines 14 through 19.

H-5104 FILED BY BRANSTAD of Winnebago
FEBRUARY 2, 1976 Ruled out of order with adoption of 5426 (1076) 3/10

H-5105

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 257, line 35, by striking the word "contri-" and inserting in lieu thereof the word "~~contri-~~".

2. Page 258, lines 1 through 3, by striking the words "bute to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or appointment to any political office," and inserting in lieu thereof the words "~~bute-to-the-campaign-fund-of-any-political-party,-or-to-the-campaign-fund-of-any-person-who-is-a-candidate-for-election-or-appointment-to-any-political-office,~~".

H-5105 FILED BY SPEAR of Lee
FEBRUARY 2, 1976 Adopted 4/19 (2007)

H-5106

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

A 1. Page 58, line 19, by striking the word "no" and inserting in lieu thereof the word "nor".

B 2. Page 58, line 25, by striking the words "town or the trustees of any township" and inserting in lieu thereof the words "the county board of supervisors".

3. Page 58, line 29, by striking the words ", town, or township authorities" and inserting in lieu thereof the words "or such county board of supervisors".

H-5106 FILED BY SPEAR of Lee Motion to reconsider B 4/20 (2048) withdrawn 4/22 (2086)
FEBRUARY 2, 1976 Adopted 4/20 (2047)

H-5113

Amend Senate File 85, as passed by the Senate and reprinted as follows:

1. Page 421, line 31, by striking the following: "one hundred sixty point fouteen (160.14),"

H-5113 FILED BY EVANS of Grundy
FEBRUARY 3, 1976 Out of order with adoption of 5938 4/30 (2034)

H-5133

Amend Senate File 85, as passed by the Senate and reprinted, as follows:

1. Page 217A, line 23, by striking the words "forcible felony" and inserting in lieu thereof the words "public offense".

2. Page 217A, line 25, by striking the words "forcible felony" and inserting in lieu thereof the words "public offense".

3. Page 217A, line 29, by striking the words "forcible felony" and inserting in lieu thereof the words "public offense".

4. Page 229, line 20, by inserting after the word "felony" the words "or to a person who during the commission of any public offense displayed a firearm in a threatening manner".

H-5133 FILED FEBRUARY 4, 1976

BY KREAMER of Polk
NEALSON of Muscatine

Withdrawn 4/1 (1534)

H-5134

Amend Senate File 85 as amended and passed by the Senate and reprinted as follows:

1. Page 55, by inserting after line 10 the following new section:

Sec. _____ NEW SECTION. RECEIPT, TRANSPORTATION, AND POSSESSION OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS. If a person is convicted in a state or federal court of any felony, and that person subsequently possesses, receives, or transports or causes to be transported a firearm or offensive weapon, that person shall be guilty of a class C felony.

If a person is convicted in a state or federal court of any misdemeanor where a firearm or offensive weapon is used in the commission of the misdemeanor, and that person subsequently possesses, receives, or transports or causes to be transported a firearm or offensive weapon, that person shall be guilty of a class C felony.

The provisions of this Section shall not apply to a person who is pardoned by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the Unisted States or such chief executive to receive, transport, or possess firearms or offensive weapons."

H-5134 FILED FEBRUARY 4, 1976

BY NEALSON of Muscatine
KREAMER of Polk

Withdrawn 3/18 (1256)

H-5135

Amend Senate File 85, as passed by the Senate and reprinted, as follows:

1. Page 17, by inserting after line 6 the following new section:

"Sec. _____ NEW SECTION. ASSAULT ON A PEACE OFFICER. A person commits an aggravated misdemeanor if he commits an assault as defined in section eight hundred one (801) of this division on any peace officer who is acting within the scope of his duty or authority."

H-5135 FILED - Adopted BY NEALSON of Muscatine
FEBRUARY 4, 1976 3/15 (1145) KREAMER of Polk

H-5165

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 227A, by striking lines 5 through 9 and inserting in lieu thereof the following:

"Sec. 608 NEW SECTION. When an inmate is discharged, paroled, or placed on work release residing away from the institution, the warden or superintendent shall furnish the inmate, at state expense, transportation to the place in this state indicated in the inmate's discharge, parole, or work release plan, appropriate clothing, and money in accordance with the following schedule:

1. Upon discharge or parole, one hundred dollars.

2. Upon being placed on work release residing away from the institution, fifty dollars.

3. Upon being discharged or paroled from an educational work release residing away from the institution, fifty dollars.

Those inmates receiving payment under subsections two (2) or three (3) of this section shall not be eligible for payment under subsection one (1) of this section unless they are returned to the institution. The warden or superintendent shall maintain an account of all funds expended pursuant to this section."

2. Page 421, line 32, by inserting after the figure "(223.3)," the words "two hundred forty-five point fourteen (245.14),".

3. Page 421, line 34, by inserting after the figure "(246.23)," the words "two hundred forty-six point forty-four (246.44),".

H-5165 FILED BY SPEAR of Lee
FEBRUARY 9, 1976 Adopted as amended by 6255 4/14 (1942)

H-5223

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 61, line 24, by inserting after the word "mouth" the words "or tongue".

H-5223 FILED BY SPEAR of Lee
FEBRUARY 17, 1976 Adopted 4/21 (2065)

H-5311

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 61, line 25, by inserting after the word "anus," the words "or by contact between a finger of one person and the genitalia of another person".

H-5311 FILED - Adopted 4/21 (2065) BY SPEAR of Lee
FEBRUARY 23, 1976

H-5312

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 10, by striking lines 27 through 29 and inserting in lieu thereof the following: "place. An officer is justified in using deadly force only when the officer reasonably believes that the person attempting to escape is armed with a dangerous weapon, or is confined on a charge or conviction of a felony, or that there is a substantial risk that the person attempting to escape will cause death or serious physical injury unless his or her escape is prevented".

H-5312 FILED - adopted as amended by 5340 3/11 (1106) Motion to reconsider (1124) Lost 4/21 (2076) BY SPEAR of Lee
FEBRUARY 23, 1976

H-5340

Amend the Spear amendment, H-5312 to page 10 of Senate file 85 as reprinted as follows:

1. Line 9, by inserting after the word "felony" the words "or an aggravated misdemeanor".

H-5340 FILED - Adopted 42-28 3/11 (1105) BY SPEAR of Lee
FEBRUARY 25, 1976

H-5342

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 56, lines 29 through 31, by striking the words "as an ancestor, descendent, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew" and inserting in lieu thereof the words "as an ancestor, spouse of an ancestor, aunt, uncle, brother or sister of the whole or half blood, spouse of a brother or sister of the whole or half blood, descendent, spouse of a descendent, stepchild, niece, nephew, mother-in-law or father-in-law".

H-5342 FILED - Adopted 3/20 (1311) BY SPEAR of Lee
FEBRUARY 25, 1976

H-5343

Amend the Spear amendment H-5024 to page 216 A of Senate file 85 as reprinted as follows:

1. By striking lines 3 and 4 and inserting in lieu thereof the following:

"1. Page 216A, line 14, by striking the words "five years of a life sentence" and inserting in lieu thereof the words "ten years of a life sentence imposed for other than a criminal homicide of the first degree, or fifteen years of a life sentence imposed for a criminal homicide of the first degree".

H-5343 FILED BY SPEAR of Lee
FEBRUARY 25, 1976 Ruled out of order with adoption of 5743 4/1 (1525)

H-5344

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 15 B, line 59, by striking the words "after the twentieth week of pregnancy".

2. Page 15 B, line 62, by striking the words "After the twentieth week of pregnancy, a" and inserting in lieu thereof the word "A".

3. Page 15 B, line 68, by striking the words "serious misdemeanor" and inserting in lieu thereof the words "class D felony".

H-5344 FILED BY SPEAR of Lee
FEBRUARY 25, 1976
A - adopted 3/15 (1143)
B - Lost 3/15 (1144) Motion to reconsider filed 3/15 (1151) w.d. 4/21 (2076)

H-5347

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 414, by striking all of lines 29 though 35.

2. Page 415, by striking all of lines 1 through four.

3. Page 422, line 33, by inserting after "(552.3)," the words "five hundred ninety-eight point twenty-seven (598.27),".

H-5347 FILED BY SPEAR of Lee
FEBRUARY 26, 1976 Withdrawn 4/19 (2014)

H-5357

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 268, by striking all of lines 11 through 16.

2. Page 421, line 30, by inserting after the word "Sections" the words "ninety-eight point forty (98.40), ninety-eight point forty-one (98.41),".

H-5357 FILED - Adopted 4/19 BY SPEAR of Lee
FEBRUARY 26, 1976 (2007)

H-5358

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 330, by striking all of lines 30 through 35.

2. Page 331, by striking all of lines 1 through 7.

3. Page 422, line 21, by inserting after "(252.19)," the words "two hundred eighty-seven point four (287.4),".

H-5358 FILED BY SPEAR of Lee
FEBRUARY 26, 1976 adopted 4/19 (2010)

H-5373

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 312, by striking lines 16 through 28.

2. Page 421, by striking the words "fouteen (160.14)," and inserting in lieu thereof the words "fourteen (160.14), one hundred ninety-one point five (191.5),".

3. By renumbering the remaining section and internal references to accord with this amendment.

H-5373 FILED withdrawn 4/19 BY SPEAR of Lee
FEBRUARY 27, 1976 (2007)

H-5374

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 251, by striking lines 32 through 35.

2. Page 252, by striking lines 1 through 6 and inserting in lieu thereof the following:

"53.35 ~~REFUSAL TO RETURN BALLOT~~ VIOLATIONS. Any person who~~, having procured an official ballot or ballots, shall willfully neglect or refuse to cast or return the same in the manner provided,~~ or who shall willfully violate any provision of this chapter, shall, unless otherwise provided, be ~~fined not to exceed one hundred dollars, or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor. Any person who applies for a an official ballot and willfully violates any provision of this chapter ~~neglects or refuses to return the same~~ shall be deemed to have committed an offense in the county to which such ballot was returnable."

H-5374 FILED BY SPEAR of Lee
FEBRUARY 27, 1976 Lost 23-47 4/19 (2006)

H-5377

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 55, by inserting after line 16 the following new section:

"Sec. ___. NEW SECTION. SEXUAL CONTACT FOR HIRE. As used in this section, "sexual contact" means any touching of the breast of a female or genitals of a male or female between persons not married to each other for the purpose of arousing or gratifying the sexual desires of either party. Any person who hires, or organizes one or more persons to perform acts, or who performs or engages in acts involving sexual contact in return for a fee is guilty of a serious misdemeanor."

H-5377 FILED FEBRUARY 27, 1976
Withdrawn 3/20 (1308)

BY DIELEMAN of Marion, JUNKER of Woodbury, WELLS of Linn, KREAMER of Polk, HOWELL of Floyd, DAGGETT of Adams, DANKER of Pottawattamie, BENNETT of Ida, HENNESSEY of Delaware, ANDERSON of Jasper, NEALSON of Muscatine, CRABB of Crawford, McELROY of Fremont, JORDAN of Linn, LINDEEN of Henry, MILLER of Cerro Gordo, KOOGLER of Mahaska, HALVORSON of Clayton, BORTELL of Madison, WOODS of Polk, BROCKETT of Marshall, SCHROEDER of Pottawattamie, EVANS OF Grundy, WALTER of Pottawattamie, PELLETT of Cass, HINKHOUSE of Cedar, HARVEY of Scott, TAUKE of Dubuque, TOFTE of Winneshiek, HULLINGER of Decatur, SPENCER of Clay, SCHEELHAASE of Woodbury, HUTCHINS of Guthrie, WYCKOFF of Benton, RINAS of Linn, EGENES of Story, HUSAK of Tama, MIDDLESWART of Warren, LAGESCHULTE of Bremer, SPEAR of Lee, BAKER of Buena Vista, SPRADLING of Sioux, BRUNOW of Appanoose, HANSEN of O'Brien, DUNTON of Keokuk, MENNENGA of Clinton

H-5378

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 228, lines 19 and 20, by striking the words "AND RESTORATION OF CIVIL RIGHTS".

2. Page 228, lines 30 through 32, by striking the words ", and shall have the effect of restoring the right to vote and hold public office, and the certification of discharge shall so state".

3. Page 422, line 20, by striking the words "two hundred forty-eight point three (248.3),".

H-5378 FILED - Adopted 4/14 (1943)
FEBRUARY 27, 1976

BY SPEAR of Lee

H-5382

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 37, by inserting after line 29 the following new section:

"Sec. ____. NEW SECTION. POSSESSION OF POLICE SCANNER. Any person who is convicted of any class of felony in any state or federal court and who subsequently possesses a radio receiver capable of receiving a radio frequency assigned to any law enforcement agency as of the effective date of this Act shall, upon conviction, be imprisoned in the county jail for not to exceed one year or be fined not to exceed one thousand dollars or be subject to both such fine and imprisonment."

H-5382 FILED BY DYRLAND of Clayton
FEBRUARY 27, 1976 Withdrawn 3/17 (1221)

H-5399

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Title page, by striking line 8.

H-5399 FILED - Lost 27-68 BY OAKLEY of Clinton
MARCH 2, 1976 3/9 (p. 1026)
Motion to reconsider filed 3/9 (1046) withdrawn 4/21 (2075)

H-5414

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 2, line 7, by striking the words "A person's".

2. Page 2, by striking lines 8 through 20.

H-5414 FILED - Adopted BY COMMITTEE ON JUDICIARY AND LAW
MARCH 3, 1976 3/9 (1029) ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5415

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 2, by striking lines 35 and 36.

2. Page 3, by striking line 1.

3. Page 114, line 29, by inserting after the word "name" the words "and if provided by law the degree".

4. By renumbering the remaining sections and internal references to accord with this amendment.

H-5415 FILED - Adopted BY COMMITTEE ON JUDICIARY AND LAW
MARCH 3, 1976 3/10 (1060) ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5416

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 3, line 17, by striking the word "meanings" and inserting in lieu thereof the word "meaning" and by striking the words "to that term".

2. Page 3, line 18, by striking the words "is clear that the term".

H-5416 FILED - Adopted BY COMMITTEE ON JUDICIARY AND LAW
MARCH 3, 1976 3/10 (1061) ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5417

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 4, by striking lines 1 and 2.
2. By renumbering the remaining sections to accord with this amendment.

H-5417 FILED MARCH 3, 1976
adopted 3/10 (1062)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5418

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 4, lines 5 and 6, by striking the words "other living creature" and inserting in lieu thereof the word "animal".

H-5418 FILED MARCH 3, 1976
adopted 3/10 (1062)
Motion to reconsider 3/10 (1079) lost 4/21 (2075)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5419

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 4, line 13, by striking the words "FRAUDULENT PRACTICE. Fraudulent" and inserting in lieu thereof the word "DECEPTION".
2. Page 4, line 14, by striking the word "practice" and inserting in lieu thereof the word "Deception".

H-5419 FILED MARCH 3, 1976
adopted 3/10 (1064)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5420

SENATE FILE 85

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 5, line 10, by striking the word "homicide" and inserting in lieu thereof the word "murder".

2. Page 13A, line 22, by striking the word "HOMICIDE" and inserting in lieu thereof the word "MURDER".

3. Page 13A, line 23, by striking the words "CRIMINAL HOMICIDE" and inserting in lieu thereof the word "MURDER".

4. Page 13A, lines 25 and 26, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

5. Page 13A, line 27, by striking the words "CRIMINAL HOMICIDE" and inserting in lieu thereof the word "MURDER".

6. Page 13A, line 28, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

7. Page 13A, lines 29 and 30, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

8. Page 13B, line 37, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

9. Page 13B, line 39, by striking the words "CRIMINAL HOMICIDE" and inserting in lieu thereof the word "MURDER".

10. Page 13B, line 40, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

11. Page 13B, line 41, by striking the word "criminal".

12. Page 13B, by striking line 42 and inserting in lieu thereof the words "murder which is not murder in the first".

13. Page 13B, line 44, by striking the words "Criminal homicide" and inserting in lieu thereof the word "Murder".

14. Page 13B, lines 49 and 50, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

15. Page 13B, line 51, by striking the word "irresistable" and inserting in lieu thereof the word "irresistible".

16. Page 13B, line 57, by striking the words "may be proved as" and inserting in lieu thereof the word "is".

17. Page 13B, line 58, by striking the words "criminal homicide" and inserting in lieu thereof

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the word "murder".

18. Page 13B, line 65, by inserting after the word "felony" the words "or escape".

19. Page 13C, line 71, by striking the words "may be proved as" and inserting in lieu thereof the word "is".

20. Page 13C, line 72, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

H-5420 FILED MARCH 3, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION, JESSE of Polk, Chair

adopted

H-5421

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 6, by striking lines 12 through 16, and inserting in lieu thereof the following:

Sec. ___. NEW SECTION. RECKLESS. A person is reckless or acts recklessly when he or she willfully or wantonly disregards the safety of persons or property.

H-5421 FILED MARCH 3, 1976
adopted 3/10 (1071)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5422

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 6, line 19, by striking the words "either natural or deviate,".

H-5422 FILED MARCH 3, 1976
adopted 3/10 (1072)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5423

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 6, by striking lines 34 through page 7 line 10 and inserting in lieu thereof the following:

"Sec. 301. NEW SECTION. 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 he or she had in it, and does not depend upon the degree of another person's guilt."

H-5423 FILED Adopted MARCH 3, 1976 3/10 (1073)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5424

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 7, line 12, by inserting after the word "concert," the word "knowingly".

H-5424 FILED Adopted MARCH 3, 1976 3/10 (1074)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5425

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 7, line 33, by striking the word "a" and inserting in lieu thereof the words "the same".

H-5425 FILED MARCH 3, 1976
Ruled out of order with adoption of 5625B 3/10 (1075)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5426

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 9, line 28, by inserting after the word "property." the words "Nothing in this section authorizes the use of any spring gun or trap which is left unattended and unsupervised and which is placed for the purpose of preventing or terminating criminal interference with the possession of or other right in property." A

2. Page 11, by striking lines 14 through 19. B

3. By renumbering the remaining sections to accord with this amendment.

H-5426 FILED MARCH 3, 1976 - adopted 3/10 (1076)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5427

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 10, lines 15 and 16, by striking the words "felon, any force which he reasonably believes to be necessary" and inserting in lieu thereof the words "perpetrator, reasonable force".

H-5427 FILED - adopted MARCH 3, 1976 3/10 (1078)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5428

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 10, line 19, by inserting after the word "using" the word "reasonable". A - adopted (p. 1104)

2. Page 10, lines 20 and 21, by striking the words ", including deadly force, which he reasonably believes to be necessary". Rule suspended and 5-721 adopted (p. 1105) B - adopted

3. Page 10, line 29, by inserting after the word "knows" the words "or should have known". C - Ruled out of order with adoption of 5-312 (p. 1106)

H-5428 FILED MARCH 3, 1976 3/11/76

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5429

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 11, by striking lines 1 through 13.

2. By renumbering the remaining sections to accord with this amendment.

H-5429 FILED MARCH 3, 1976 adopted 3/11 54-28 (p. 1106)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5430

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 11, by striking lines 25 through 35.
2. Page 12, by striking lines 1 through 15.
3. Page 181, by striking lines 23 through 25.
4. By renumbering the remaining sections and internal references to accord with this amendment.

H-5430 FILED MARCH 3, 1976
Adopted 3/11 (1106)
Motion to reconsider 3/15 (1151) prevailed 4/21 Lost (2076)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5431

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 13A, by striking lines 5 through 15, and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. PENALTIES. A person who commits a conspiracy to commit a forcible felony is guilty of a class C felony. A person who commits a conspiracy to commit a felony, other than a forcible felony, is guilty of a class D felony. A person who commits a conspiracy to commit a misdemeanor is guilty of a misdemeanor of the same class."

H-5431 FILED
Adopted 3/11 (p. 1120)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5432

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 16, line 21, by striking the word "deadly" and inserting in lieu thereof the word "dangerous".
2. Page 16, by striking lines 31 through 34 and inserting in lieu thereof the following:

"1. A person who commits an assault with the intent to inflict serious injury upon another person or who intentionally points any firearm or displays a dangerous weapon in a threatening manner toward another person, shall be guilty of an aggravated misdemeanor."

H-5432 FILED MARCH 3, 1976
Adopted 3/15 (1144)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5433

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 17, line 28, by striking the word ", harras,".
2. Page 17, line 29, by striking the words "Shoots or throws a missile or discharges" and inserting in lieu thereof the word "Discharges".

H-5433 FILED MARCH 3, 1976
Withdrawn 3/15 (1146)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5434

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 18, by striking lines 2 through 23.

2. Page 37, by inserting after line 27 the following new section:

"Sec. ___. NEW SECTION. FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES. A person who reports or causes to be reported false information to a fire department or a law enforcement authority, knowing that the information is false or who reports the alleged occurrence of a criminal act, knowing the same did not occur commits a simple misdemeanor."

3. Page 179, by striking lines 33 and 34.

4. By renumbering the remaining sections and internal references to accord with this amendment.

H-5434 FILED MARCH 3, 1976
A- Lost 3/15 28-54 (1146)
B- Adopted 3/17 (1221)
C- Withdrawn 3/17 "

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5435

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 18, lines 35 and 36, by striking the words "husband and wife, or between a husband and wife who are not".

2. Page 19A, line 1, by striking the words "he performs" and by inserting after the word "act" the words "is performed".

3. Page 19A, line 3, by inserting after the word "force" the word "or".

4. Page 19A, lines 6 and 7, by striking the words "so consenting or acquiescing".

5. Page 19A, line 30, by striking the words "force and" and inserting in lieu thereof the words "force or".

6. Page 19B, line 37, by striking the word "and" and inserting in lieu thereof the word "or".

H-5435 FILED MARCH 3, 1976
A- Withdrawn 3/15 (1148)
B- Ruled out of order with adoption of S770 3/16 (1167)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5436

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 20A, by striking lines 4 through 8.

H-5436 FILED MARCH 3, 1976
Lost 3/18 (1256)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5440

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 24, line 7, by inserting after the word "damaged" the following: "Provided, that where a person whose ownership or security interest in the property which the defendant intends to destroy or damage, or which he knowingly endangers, equals ninety percent or more of its value, consented to the defendant's acts, and where no insurer has been exposed fraudulently to any risk which he has not knowingly contracted for, 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. Page 24, by striking lines 28 through page 25, line 3.

H-5440 FILED MARCH 3, 1976
Adopted as amended by 5740 3/16 (1176)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5441

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 24, line 11, by striking the words "a dwelling, or a building" and inserting in lieu thereof the word "property". A adopted (1176)

2. Page 24, lines 12 through 15, by striking the phrase "or when he knows or should know that his act will create a reasonable probability that death or serious physical injury to another will result". B adopted 52-21 (1177)

H-5441 FILED MARCH 3, 1976
adopted 3/16

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5442

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 25, line 31, by striking the word "will" and inserting in lieu thereof the word "would".

H-5442 FILED MARCH 3, 1976
adopted 3/16 (1179)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5443

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 25, line 33, by striking the words "A person who makes".

2. Page 25, by striking line 34 and inserting in lieu thereof the words "Any person who threatens to place or attempts to place".

H-5443 FILED MARCH 3, 1976
adopted 3/16 (1179)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5444

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 27B, line 38, by inserting after the word "funds" the words "or no account".
2. Page 28A, by striking lines 8 through 16.

H-5444 FILED MARCH 3, 1976
adopted as amended by 5674 3/20 (1298)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5445

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 28B, line 43, by inserting after the word "value" the words "within the community".

H-5445 FILED MARCH 3, 1976
Adopted 3/16 (1183)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5446

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 29, by striking lines 13 through 25.
2. By renumbering the remaining sections and internal references to accord with this amendment.

H-5446 FILED MARCH 3, 1976
Adopted 3/16 (1184)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5447

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 30, line 14, by striking the words "a violation of section one thousand four hundred".
2. Page 30, by striking line 15, and inserting in lieu thereof the word "theft.".

H-5447 FILED MARCH 3, 1976
Adopted 3/16 (1184)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5448

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 31A, by striking lines 28 through 31B, line 46.

H-5448 FILED MARCH 3, 1976
Ruled out of order with consideration of 5821 3/16 (1187)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5449

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 34, line 24, by inserting after the word "altered," the word "or" and by striking the words ", or concealed".

H-5449 FILED MARCH 3, 1976
adopted 3/16 (1188)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5450

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 36, line 33, by striking the word "two" and inserting in lieu thereof the word "three".

H-5450 FILED MARCH 3, 1976
adopted 3/17 (1220)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5451

Amend Senate File 85 as amended, passed, and reprinted by the Senate, page 37, line 20, by striking the word "serious" and inserting in lieu thereof the word "simple".

H-5451 FILED MARCH 3, 1976
adopted 3/17 (1221)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SBUCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5452

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 38, by striking lines 25 through 28.

H-5452 FILED MARCH 3, 1976
adopted 3/17 (1222)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5453

Amend Senate File 85 as amended, passed, and reprinted by the Senate, page 40, line 30 by striking the word "said".

H-5453 FILED MARCH 3, 1976
adopted 3/17 (1224)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5454

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 41, by striking lines 31 through page 42, line 5.

H-5454 FILED MARCH 3, 1976
adopted 3/17 (1224)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5437

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 20A, lines 21 and 22, by striking the words "PERSONS UNDER THE AGE OF SIXTEEN YEARS" and inserting in lieu thereof the words "A CHILD".

2. Page 20A, line 24, by striking the words "any person under the age of sixteen" and inserting in lieu thereof the words "a child".

3. Page 20A, lines 28 and 29, by striking the words "person under the age of sixteen" and inserting in lieu thereof the word "child".

4. Page 20A, line 30, by striking the words "person under the age of sixteen" and by inserting in lieu thereof the word "child".

5. Page 20A, line 32, by striking the words "person under sixteen years of age" and inserting in lieu thereof the word "child".

6. Page 20B, by striking lines 37 through 39 and inserting in lieu thereof the following:

"4. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on him or her."

H-5437 FILED MARCH 3, 1976
adopted 3/16 (p. 1170)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE Of Polk, Chair

H-5438

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 21A, line 7, by striking the words "either of them" and inserting in lieu thereof the words "such person or another".

H-5438 FILED MARCH 3, 1976
adopted 3/16 (1171)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5439

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 21B, line 41, by striking the words "a firearm or displays".

H-5439 FILED MARCH 3, 1976
adopted 3/16 (1173)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE Of Polk, Chair

H-5464

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 53, line 1, by inserting after the word "sells" the words "or transfers ownership of".
2. Page 53, line 3, by inserting after the word "sale" the words "or transfer".
3. Page 53, line 5, by inserting after the word "selling" the words "or transfer".
4. Page 53, line 7, by striking the word "purchaser" and inserting in lieu thereof the word "recipient".
5. Page 53, line 8, by striking line 8, and inserting in lieu thereof the words "the model, caliber, serial number, and make of such".

H-5464 FILED MARCH 3, 1976
adopted 3/17 (1238)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5465

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 53, line 21, by striking the word "dangerous weapon" and inserting in lieu thereof the word "firearm".
2. Page 53, line 22, by striking the words "dangerous weapon" and inserting in lieu thereof the word "firearm".
3. Page 53, lines 25 and 26, by striking the words "and hunting and fishing knives,".

H-5465 FILED MARCH 3, 1976
adopted 3/17 (1238)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION, JESSE of Polk, Chair

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H-5466

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 57A, line 20, by inserting after the words "adoptive parent" the words "or person having custody".
2. Page 57A, line 25, by inserting after the words "adoptive parent" the words "or person having custody".

H-5466 FILED MARCH 3, 1976
adopted 3/20 (1311)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5467

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 86, by striking lines 12 through 35.
2. Page 87, by striking lines 1 through 17.
3. By renumbering the remaining divisions, sections and internal references to accord with this amendment.

H-5467 FILED MARCH 3, 1976
adopted as amended by 5884 3/25 (1411)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5460

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 48, by striking line 16 and inserting in lieu thereof the following: "antique weapons or replicas of antique weapons kept for display or ceremonial use."

H-5460 FILED MARCH 3, 1976
withdrawn 3/17 (1233)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5461

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 49, line 16, by inserting after the word "vehicle" the words "operated by the person".
2. Page 49, line 20, by inserting after the word "owned" the words "or possessed".

H-5461 FILED MARCH 3, 1976
adopted 3/17 (1234)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5462

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 50, line 5, by inserting after the word "while" the words "engaged in lawful".
2. Page 50, line 24, by striking the words "sums of money" and inserting in lieu thereof the words "property of a value requiring security".

H-5462 FILED MARCH 3, 1976
adopted 3/17 (1235)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5463

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 52, by inserting after line 4 the following new subsection:

"5. When the commissioner reasonably determines from competent evidence that the applicant constitutes a danger to himself or others."

H-5463 FILED MARCH 3, 1976
adopted 3/17 (1237)
Reconsidered, amended by 6357 and adopted 4/21

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5472

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 133, line 16, by inserting after the word "defendant" the words "or videotape recordings of the defendant".

2. Page 133, line 22, by inserting after the word "voice" the words "or videotape".

3. Page 133, line 29, by inserting after the word "statement" the words "or videotape recordings".

H-5472 FILED MARCH 3, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

Ruled out of order with adoption of 5510 3/30 (1481)

H-5473

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 135B, line 50, by inserting after the word "judge" the words "and the defendant's attorney".

H-5473 FILED MARCH 3, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

Ruled out of order with adoption of 5510 3/30 (1481)

H-5474

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 137, line 6, by striking the word "Subpoenas".

2. Page 137, by striking lines 7 through 9.

H-5474 FILED MARCH 3, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

Motion to reconsider 3/30 Lost 4/12 (2090)

adopted 3/20 (1481) 47-29

H-5475

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 137, by striking lines 29 through 35.

2. Page 138, by striking lines 1 through 3.

3. Page 138, line 4, by striking the letter "c" and inserting in lieu thereof the figure "4".

4. Page 138, line 8, by striking the letter "d" and inserting in lieu thereof the figure "5".

H-5475 FILED MARCH 3, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

Adopted 4/21 (2066)

H-5476

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 144, line 34, by striking the word "four" and inserting in lieu thereof the word "fourteen".

2. Page 145, line 2, by striking the word "four" and inserting in lieu thereof the word "fourteen".

3. Page 145, line 13, by striking the word "four" and inserting in lieu thereof the word "fourteen".

H-5476 FILED MARCH 3, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

Lost 29-56 3/21 (1497)

H-5468

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 106, line 14, by inserting after the comma the words "a peace officer selected by the attorney representing the state,".

H-5468 FILED MARCH 3, 1976
adopted 3/25 (1416)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5469

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 112A, by striking lines 30 through 35 and inserting in lieu thereof the following:

"The grand jury shall meet at times specified by order of a district judge. In addition to those times, the grand jury shall meet at the request of the county attorney or upon the request of a majority of the grand jurors."

H-5469 FILED MARCH 3, 1976
adopted 3/25 (1417)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5470

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

A 1. Page 116, line 9, by inserting after the word "names" the words ", occupations, and last known addresses".

B 2. Page 116, lines 11 and 12, by striking the words "minute of the evidence" and inserting in lieu thereof the words "full and fair statement of what the testimony of the witnesses endorsed thereon is expected to be".

H-5470 FILED MARCH 3, 1976
A- adopted 3/25 (1420)
B- Ruled out of order with adoption of 5989 3/25

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5471

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 116, by striking lines 15 and 16.

2. Page 116, line 17, by striking the words "jurisdiction of the offense" and inserting in lieu thereof the following:

"4. APPROVAL BY JUDGE. Prior to the filing of the information, a district judge having jurisdiction of the offense must approve the information by a finding that the evidence contained in the information and the minutes of testimony, if unexplained, would warrant a conviction by the trial jury."

H-5471 FILED MARCH 3, 1976
adopted as amended by 5988 3/25 (1422)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5477

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 146, by striking lines 34 and 35 and inserting in lieu thereof the following:

"DURING DELIBERATIONS. Notes may be taken by jurors during the testimony of witnesses. All jurors shall have an equal opportunity to take notes. The court shall instruct the jury to mutilate and destroy any notes taken during the trial at the completion of the jury's deliberation. Upon retiring".

H 5477 FILED MARCH 3, 1976
adopted as amended by 6057 3/31 (1498)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5478

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 151, line 20, by striking the words "under the fifth amendment to the Constitution".
2. Page 151, line 21, by striking the words "of the United States".

H-5478 FILED MARCH 3, 1976
Adopted 3/31 (1498)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5479

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 158, by striking lines 32 through 35.
2. Page 159, by striking lines 1 through 9 and inserting in lieu thereof the following:

"The application for a new trial can be made only by the defendant and shall be made before judgment, but where based upon newly discovered evidence may be made after judgment as well. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In any case the court shall specify in the order the grounds therefor."

H-5479 FILED MARCH 3, 1976
Adopted 3/31 (1502)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5480

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 161, by striking lines 3 through 5 and inserting in lieu thereof the following:

"c. ON MOTION OF COURT. The court may also, at any time before judgment is pronounced, enter an order in arrest of judgment upon a finding, plea, or verdict of guilty on its own motion."

H-5480 FILED MARCH 3, 1976
adopted as amended by 6079 3/31 (1509)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5481

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 166A, line 24, by striking the words "not admitted to". B

2. Page 166A, line 25, by striking the words "bail and unrepresented by legal counsel".

3. Page 166A, line 31, by striking the words "If a" and inserting in lieu thereof the word "A". A

4. Page 166A, by striking line 32.

5. Page 166A, line 33, by striking the word "counsel". B

6. Page 166A, line 34, by striking the word "he". A

7. Page 166B, by striking lines 38 through 44. B

8. By renumbering the remaining subsections to accord with this amendment.

H-5481 FILED MARCH 3, 1976
BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

A - Withdrawn
B - Adopted 3/31 (1504)

H-5482

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 166B, line 46, by striking the words "one year" and inserting in lieu thereof the words "one hundred eighty days".

H-5482 FILED MARCH 3, 1976
Lost 3/31 (1505)
BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

Motion to reconsider (1509) withdrawn 4/22 (2092)

H-5483

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 185, line 27, by striking the word "order" and inserting in lieu thereof the word "manner".

H-5483 FILED MARCH 3, 1976
Adopted 3/31 (1506)
BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5484

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 187, line 10, by striking the word "its" and inserting in lieu thereof the words "the district court".

H-5484 FILED MARCH 3, 1976
Adopted as amended by voice 3/31 (1507)
BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5506

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 124, line 11, by inserting after the word "particulars" the words "or a change of venue".

2. Page 124, line 14, by inserting after the word "for" the word "good".

H-5506 FILED MARCH 3, 1976
adopted 3/5 (1425)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5508

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 126, line 26, by inserting after the word "had" the words "owing to the prejudice of the judge, or to excitement or prejudice against the defendant in such county. The petition shall be verified on information and belief by the affidavit of the petitioners".

H-5508 FILED MARCH 3, 1976
adopted as amended by 6005 3/25 (1426)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5509

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 128, lines 28 and 29, by striking the words "the district court which has jurisdiction to try the aggrieved party".

H-5509 FILED MARCH 3, 1976
adopted as amended 3/30 by 6032 4

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5510

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 130A, by striking lines 16 through 35.

2. By striking ~~lines~~ page 130B through 135B.

3. Page 136, by striking lines 1 through 34 and inserting in lieu thereof the following:

"Rule 12. DEPOSITIONS. A defendant in a criminal case, either after preliminary information, indictment, or information, may examine witnesses conditionally or on notice or commission, in the same manner and with like effect as in civil actions.

Rule 13. PERPETUATING TESTIMONY. A person apprehensive of a criminal prosecution may perpetuate testimony in his or her favor in the same manner, and with like effect, as may be done in apprehension of any civil action."

H-5510 FILED MARCH 3, 1976
adopted as amended by 5993 and 6015 3/30 (1480)
46-45

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

Motion to reconsider 3/30 Motion to reconsider prevailed 4/22. Adopted 48-45 4/22 (2089)

H-5501

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 105, line 23, by inserting after the word "custody." the following: "With the consent of the defendant and upon a showing of good cause, the time limits specified may be extended by the magistrate. In the absence of such consent, the time limits may be extended only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interest of justice."

2. Page 105, by striking lines 24 through 26.

H-5501 FILED MARCH 3, 1976
Lost 3/25 (1416) 45-48

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5502

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 115, lines 9 and 10, by striking the words "or bill of particulars".

H-5502 FILED MARCH 3, 1976
adopted 3/25 (1420)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5503

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 116, line 32, by inserting after the word "subpoenas" the words "including subpoena duces tecum,".

H-5503 FILED MARCH 3, 1976
adopted 3/25 (1422)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5504

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 117, by striking line 4, and inserting in lieu thereof the words "event disclosure shall be made." — A adopted 3/25 57-21 (1423)

2. Page 117, line 9, by inserting after the word "witnesses" the words "and any penalties for violations thereof". — B - adopted

H-5504 FILED MARCH 3, 1976
adopted 3/25 (1423)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5505

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 117, line 26, by striking the words "An included crime".

2. Page 117, by striking lines 27 through page 118A, line 9.

H-5505 FILED MARCH 3, 1976
adopted 3/25 (1423)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5455

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 41, line 30, by striking the words "him to be guilty" and inserting in lieu thereof the words "that the person committed the offense".

H-5455 FILED MARCH 3, 1976
adopted 3/17 (1224)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5456

Amend Senate File 82 as amended, passed, and reprinted by the Senate as follows:

1. Page 41, line 13, by striking the words "will possibly" and inserting in lieu thereof the words "has been or may".

H-5456 FILED MARCH 3, 1976
adopted 3/17 (1224)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5457

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 44, line 10, by striking the word "corruptly".

H-5457 FILED MARCH 3, 1976
adopted 3/17 (1225)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5458

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 46, line 32, by striking the word "and" and inserting in lieu thereof the word "or".
2. Page 46, line 34, by inserting before the word "refuses" the word "who" and by striking the words "or willingly fails to obey".

H-5458 FILED MARCH 3, 1976
adopted 3/17 (1226)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5459

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 47, by striking lines 11 through 13.
2. Page 47, by striking lines 17 through 23.

H-5459 FILED MARCH 3, 1976
adopted 3/17 (1226-7)

BE COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5511

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 417, by inserting after line 8 the following:

"Sec. . Section six hundred nine point twenty-six (609.26), Code 1975, is amended to read as follows:

609.26 MAXIMUM SERVICE PERMITTED. ~~No~~ Except as provided in Rule three (3), subsection three (3), paragraph a of the rules of criminal procedure, no person on the list of grand jurors shall be eligible to serve as a grand juror except for one calendar year of the biennial period for which the list is made."

H-5511 FILED MARCH 3, 1976
Adopted 4/19 (2020)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5513

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 425, by inserting after line 30 the following:

"Sec. . Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred eighty-three (183), is repealed."

2. By renumbering the remaining sections and subsections to accord with this amendment.

H-5513 FILED MARCH 3, 1976
Withdrawn 4/20 (2037)

BY HORN of Linn

H-5512

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 421, by inserting after line 29 the following new sections:

"Sec. ___. Section seven hundred fifty-three point nine (753.9), Code 1975, is amended to read as follows:

Except for citations for ~~traffic violations~~ nonindictable misdemeanors where the violator has submitted bond, any person who willfully fails to appear in court as specified by the citation shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment. ~~Failure to appear in response to a citation for a traffic violation shall be governed by section 321.487.~~

In a case, other than one which alleges the commission of a nonindictable misdemeanor and in which bond has been submitted, 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 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 citation attached to the law enforcement agency which issued the original citation for enforcement of the warrant. Upon arrest of the defendant, the warrant and the original citation shall be returned to the court, and the offenses shall be heard and disposed of simultaneously.

In a case which alleges the commission of a nonindictable misdemeanor and in which the violator has submitted bond by cash, check, or guaranteed arrest bond certificate as defined in section three hundred twenty-one point one (321.1) of the Code, where a defendant fails to make a required court appearance the court shall order a forfeiture of the bond as provided in section seven hundred sixty-six point seven (766.7) of the Code.

Sec. ___. Section seven hundred fifty-three point thirteen (753.13), Code 1975, and the division title immediately preceeding that section are amended to read as follows:

~~TRAFFIC~~ SCHEDULED VIOLATIONS

753.13 UNIFORM CITATION AND COMPLAINT.

1. The commissioner of public safety shall adopt a uniform, combined ~~traffic~~ citation and complaint, which shall be used for charging all traffic violations

in Iowa under state law or municipal ordinance, unless the defendant is charged by information or unless section 321.236, subsection 1, is applicable, and which shall be used for charging all other violations of state law which are designated by section seven hundred fifty-three point fifteen (753.15) of the Code to be scheduled violations. Each citation and complaint shall be serially numbered and shall be in quadruplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, a copy to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward the copy of the citation and complaint in accordance with section 321.207, when applicable. The citation and complaint shall contain, among other things, spaces for the parties' names and for the information required by ~~section~~ sections 321.485, subsection 2 and seven hundred fifty-three point six (753.6) of the Code; a place where the defendant may sign the promise to appear referred to in ~~section~~ sections 321.486 and seven hundred fifty-three point seven (753.7) of the Code; a list of the ~~minimum~~ scheduled fines prescribed by section 753.15, either separately or by groups; a brief explanation of sections 753.16 and 753.17; and a space where the defendant may sign an admission of the violation when such section 753.16 is applicable. Every citation and complaint shall require the defendant to appear before a court at a specified time and place. Notwithstanding section 321.485, subsection 2, the officer may arrest the defendant although a citation and complaint is used to charge the violation, if authorized by section 755.4.

2. Supplies of the uniform ~~traffic~~ citation and complaint for municipal corporations and county agencies shall be paid for out of the court expense fund of the county. Supplies of the uniform ~~traffic~~ citation and complaint for all other agencies shall be paid for out of the budget of the agency concerned.

3. The uniform citation and complaint shall contain a place for the verification of the officer issuing the citation. The complaint may be verified before the chief officer of the law enforcement agency or his designee, and the chief officer of each law enforcement agency of the state is authorized to designate specific individuals to administer oaths and certify verifications. Nothing in this section shall be deemed to invalidate forms of uniform citation and complaint in existence prior to July 1, ~~1974~~ 1976, and existing forms may be used until supplies are

exhausted.

4. The department of public safety shall design and publish a compendium of scheduled violations and scheduled fines and costs, containing other information which the commissioner of public safety deems 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. Copies shall be made available to individuals upon request and a charge may be collected which does not exceed the cost of printing.

Sec. ___. Section seven hundred fifty-three point fourteen (753.14), Code 1975, is amended to read as follows:

753.14 ~~TRAFFIC~~ SCHEDULED VIOLATIONS OFFICES--FINE COLLECTION BOXES.

1. OFFICES. Each district court clerk's office shall constitute a ~~traffic~~ scheduled violations office of the district court. Additional ~~traffic violations~~ 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. Such boxes shall be used solely for the deposit of fines and costs received upon written admissions of those scheduled violations ~~respecting weight and other nonmoving scheduled violations~~ applicable to or committed by commercial carriers. The collection boxes shall remain locked at all times and shall be opened only by the clerk of the district court or his designee. The chief judge of the district may prescribe procedures for the system and may discontinue its use if necessary.

Sec. ___. Section seven hundred fifty-three point fifteen (753.15), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter sixty-seven (67), section fifty-six (56), is amended by striking the section and inserting in lieu thereof the following:

753.15 SCHEDULED VIOLATIONS.

1. Except as otherwise indicated, violations of sections of the Code specified in this section shall be scheduled violations, and the scheduled fine for each of those violations shall be as provided in this section, whether the violation is of state law or of county or city ordinance.

2. TRAFFIC VIOLATIONS.

a. For parking violations under sections three hundred twenty-one point two hundred thirty-six (321.236), three hundred twenty-one point two hundred thirty-nine (321.239), three hundred twenty-one point three hundred fifty-eight (321.358), three hundred twenty-one point three hundred sixty (321.360), and three hundred twenty-one point three hundred sixty-one (321.361) of the Code, the scheduled fine is five dollars: However, violations charged by a city upon simple notice of a fine instead of a uniform citation and complaint as permitted by paragraph a of subsection one (1) of section three hundred twenty-one point two hundred thirty-six (321.236) of the Code are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section three hundred twenty-one point three hundred sixty-two (321.362) of the Code the scheduled fine is ten dollars.

b. For registration violations under sections three hundred twenty-one point seventeen (321.17), three hundred twenty-one point thirty-two (321.32), three hundred twenty-one point thirty-four (321.34), three hundred twenty-one point thirty-seven (321.37), three hundred twenty-one point thirty-eight (321.38), three hundred twenty-one point forty-one (321.41), three hundred twenty-one point ninety-eight (321.98) and three hundred twenty-one point one hundred ninety (321.190) of the Code, the scheduled fine is five dollars. For violations of section three hundred twenty-one point one hundred ninety (321.190) of the Code, the case shall be dismissed without imposition of fine or costs if a license valid at the time of the issuance of the citation is presented by the defendant to the magistrate or scheduled violations office.

c. For improperly used or nonused, or defective or improper equipment, other than brakes, driving lights and brakelights, under sections three hundred twenty-one point three hundred seventeen (321.317), three hundred twenty-one point three hundred eighty-seven (321.387), three hundred twenty-one point three hundred eighty-eight (321.388), three hundred twenty-one point three hundred eighty-nine (321.389), three hundred twenty-one point three hundred ninety (321.390), three hundred twenty-one point three hundred ninety-one (321.391), three hundred twenty-one point three hundred ninety-two (321.392), three hundred twenty-one point three hundred ninety-nine (321.399), three hundred twenty-one point four hundred twenty-two (321.422), three hundred twenty-one point four

hundred thirty-two (321.432), three hundred twenty-one point four hundred thirty-five (321.435), three hundred twenty-one point four hundred thirty-six (321.436), three hundred twenty-one point four hundred thirty-seven (321.437), three hundred twenty-one point four hundred thirty-eight (321.438), three hundred twenty-one point four hundred thirty-nine (321.439), three hundred twenty-one point four hundred forty (321.440), three hundred twenty-one point four hundred forty-one (321.441), three hundred twenty-one point four hundred forty-two (321.442), three hundred twenty-one point four hundred forty-four (321.444), three hundred twenty-one point four hundred forty-five (321.445), and three hundred twenty-one point four hundred forty-seven (321.447) of the Code, the scheduled fine is ten dollars.

d. For improperly used or nonused or defective or improper equipment under sections three hundred twenty-one point three hundred eighty-three (321.383), three hundred twenty-one point three hundred eighty-four (321.384), three hundred twenty-one point three hundred eighty-five (321.385), three hundred twenty-one point three hundred eighty-six (321.386), three hundred twenty-one point three hundred ninety-eight (321.398), three hundred twenty-one point four hundred (321.400), three hundred twenty-one point four hundred two (321.402), three hundred twenty-one point four hundred three (321.403), three hundred twenty-one point four hundred four (321.404), three hundred twenty-one point four hundred nine (321.409), three hundred twenty-one point four hundred fifteen (321.415), three hundred twenty-one point four hundred nineteen (321.419), three hundred twenty-one point four hundred twenty (321.420), three hundred twenty-one point four hundred twenty-three (321.423), three hundred twenty-one point four hundred thirty (321.430), three hundred twenty-one point four hundred thirty-three (321.433), three hundred twenty-one point four hundred forty-eight (321.448), three hundred twenty-one point four hundred forty-nine (321.449), and three hundred twenty-one point four hundred fifty (321.450) of the Code the scheduled fine is twenty dollars.

e. For violations of a restricted license under sections three hundred twenty-one point one hundred eighty (321.180), three hundred twenty-one point one hundred ninety-three (321.193), and three hundred twenty-one point one hundred ninety-four (321.194) of the Code the scheduled fine is twenty dollars.

f. For excessive speed violations when not more than ten miles per hour in excess of the limit under

sections three hundred twenty-one point two hundred thirty-six (321.236), subsections five (5) and eleven (11), three hundred twenty-one point two hundred eighty-five (321.285), three hundred twenty-one point two hundred eighty-six (321.286), and three hundred twenty-one point two hundred eighty-seven (321.287) of the Code, the scheduled fine is ten dollars.

Excessive speed in conjunction with a violation of section three hundred twenty-one point two hundred seventy-eight (321.278) of the Code is not a scheduled violation, whatever the amount of excess speed.

For excessive speed violations when in excess of ten but not more than twenty miles per hour in excess of the limit under those sections, the scheduled fine is thirty dollars: However, speed more than ten miles per hour in excess of the speed limit by the operator of a school bus is not a scheduled violation. Excessive speed more than twenty miles per hour in excess of the limit is not a scheduled violation.

g. For operating, passing, turning and standing violations under sections three hundred twenty-one point two hundred twenty-five (321.225), three hundred twenty-one point two hundred thirty-six (321.236), subsections three (3), four (4), nine (9) and twelve (12), three hundred twenty-one point two hundred seventy-five (321.275), three hundred twenty-one point two hundred ninety-five (321.295), three hundred twenty-one point two hundred ninety-seven (321.297), three hundred twenty-one point two hundred ninety-nine (321.299), three hundred twenty-one point three hundred three (321.303), three hundred twenty-one point three hundred four (321.304), subsections one (1) and two (2), three hundred twenty-one point three hundred five (321.305), three hundred twenty-one point three hundred six (321.306), three hundred twenty-one point three hundred eleven (321.311), three hundred twenty-one point three hundred twelve (321.312), three hundred twenty-one point three hundred fourteen (321.314), three hundred twenty-one point three hundred fifteen (321.315), three hundred twenty-one point three hundred sixteen (321.316), three hundred twenty-one point three hundred eighteen (321.318), three hundred twenty-one point three hundred twenty-three (321.323), three hundred twenty-one point three hundred thirty-five (321.335), three hundred twenty-one point three hundred thirty-six (321.336), three hundred twenty-one point three hundred thirty-seven (321.337), three hundred twenty-one point three hundred thirty-eight (321.338), three hundred twenty-one point three hundred forty (321.340), three hundred twenty-one

point three hundred forty-four (321.344), three hundred twenty-one point three hundred fifty-three (321.353), three hundred twenty-one point three hundred fifty-four (321.354), three hundred twenty-one point three hundred sixty-three (321.363), three hundred twenty-one point three hundred sixty-four (321.364), three hundred twenty-one point three hundred sixty-five (321.365), three hundred twenty-one point three hundred sixty-six (321.366), three hundred twenty-one point three hundred sixty-eight (321.368), three hundred twenty-one point three hundred eighty-two (321.382), and three hundred twenty-one point three hundred ninety-five (321.395) of the Code, the scheduled fine is fifteen dollars.

h. For violations involving failures to yield or to observe pedestrians and other vehicles under sections three hundred twenty-one point two hundred fifty-seven (321.257), subsections one (1) and four (4), three hundred twenty-one point two hundred eighty-eight (321.288), three hundred twenty-one point two hundred ninety-eight (321.298), three hundred twenty-one point three hundred (321.300), three hundred twenty-one point three hundred seven (321.307), three hundred twenty-one point three hundred eight (321.308), three hundred twenty-one point three hundred thirteen (321.313), three hundred twenty-one point three hundred nineteen (321.319), three hundred twenty-one point three hundred twenty (321.320), three hundred twenty-one point three hundred twenty-one (321.321), three hundred twenty-one point three hundred twenty-nine (321.329), three hundred twenty-one point three hundred thirty-three (321.333), three hundred twenty-one point three hundred thirty-nine (321.339), and three hundred twenty-one point three hundred sixty-seven (321.367) of the Code, the scheduled fine is twenty dollars.

i. For violations by pedestrians and bicyclists under sections three hundred twenty-one point two hundred thirty-six (321.236), subsection ten (10), three hundred twenty-one point three hundred twenty-five (321.325), three hundred twenty-one point three hundred twenty-six (321.326), three hundred twenty-one point three hundred twenty-eight (321.328), three hundred twenty-one point three hundred thirty-one (321.331), three hundred twenty-one point three hundred thirty-two (321.332), three hundred twenty-one point three hundred ninety-seven (321.397), and three hundred twenty-one point four hundred thirty-four (321.434) of the Code, the scheduled fine is ten dollars.

j. For violations by operators of school buses and emergency vehicles, and for violations by other

motor vehicle operators when in vicinity, under sections three hundred twenty-one point two hundred thirty-one (321.231), three hundred twenty-one point three hundred twenty-four (321.324), three hundred twenty-one point three hundred seventy-two (321.372), and three hundred twenty-one point three hundred seventy-seven (321.377) of the Code, the scheduled fine is twenty-five dollars: However, excessive speed by a school bus in excess of ten miles over the limit is not a scheduled violation.

k. For violations of traffic signs and signals, and for failure to obey an officer under sections three hundred twenty-one point two hundred twenty-nine (321.229), three hundred twenty-one point two hundred thirty-six (321.236), subsections two (2), and six (6), three hundred twenty-one point two hundred fifty-seven (321.257), subsections two (2) and three (3), three hundred twenty-one point two hundred fifty-eight (321.258), three hundred twenty-one point two hundred ninety-four (321.294), three hundred twenty-one point three hundred four (321.304), subsection three (3), three hundred twenty-one point three hundred twenty-two (321.322), three hundred twenty-one point three hundred forty-one (321.341), three hundred twenty-one point three hundred forty-two (321.342), three hundred twenty-one point three hundred forty-three (321.343), and three hundred twenty-one point three hundred forty-five (321.345) of the Code, the scheduled fine is twenty dollars.

l. For height, weight and load violations and towed vehicle violations under sections three hundred twenty-one point three hundred nine (321.309), three hundred twenty-one point three hundred ten (321.310), three hundred twenty-one point three hundred eighty-one (321.381), three hundred twenty-one point three hundred ninety-four (321.394), three hundred twenty-one point four hundred thirty-seven (321.437), three hundred twenty-one point four hundred fifty-five (321.455), three hundred twenty-one point four hundred fifty-six (321.456), three hundred twenty-one point four hundred fifty-seven (321.457), three hundred twenty-one point four hundred fifty-eight (321.458), three hundred twenty-one point four hundred sixty-one (321.461), three hundred twenty-one point four hundred sixty-two (321.462), and three hundred twenty-one point four hundred seventy-four (321.474) of the Code, the scheduled fine is twenty-five dollars. For weight violations under sections three hundred twenty-one point four hundred fifty-nine (321.459) and three hundred twenty-one point four hundred sixty-

six (321.466) of the Code the scheduled fine is ten dollars for each two thousand pounds or fraction thereof of overweight.

m. For violation of display of identification required by section three hundred twenty-six point twenty-two (326.22) of the Code and violation of trip permits as prescribed by sections three hundred twenty-six point twenty-three (326.23) and three hundred twenty-six point twenty-four (326.24) of the Code, the scheduled fine is ten dollars.

n. For violation of intrastate hauling on foreign registration under sections three hundred twenty-one point fifty-four (321.54) and three hundred twenty-one point fifty-five (321.55) of the Code; use of registration under section three hundred twenty-one point ninety-nine (321.99) of the Code; and display of registration or plates under section three hundred twenty-one point ninety-eight (321.98) of the Code, the scheduled fine is twenty dollars.

o. For violations of sections three hundred twenty-four point fourteen (324.14), three hundred twenty-four point fifty-two (324.52) or three hundred twenty-four point seventy-four (324.74), subsections two (2) and six (6), of the Code, the scheduled fine is ten dollars.

p. Violations of the schedule of axle and tandem axle and gross or group of axle weight violations in section three hundred twenty-one point four hundred sixty-three (321.463) of the Code shall be scheduled violations subject to the provisions, procedures and exceptions contained in sections seven hundred fifty-three point thirteen (753.13) to seven hundred fifty-three point eighteen (753.18) of the Code, irrespective of the amount of the fine under that schedule. Violations of the schedule of weight violations shall be chargeable, where the fine charged does not exceed one hundred dollars, only by uniform citation and complaint. Violations of the schedule of weight violations, where the fine charged exceeds one hundred dollars: (1) Shall, when the violation is admitted and section seven hundred fifty-three point sixteen (753.16) of the Code applies, be chargeable upon uniform citation and complaint, indictment, or county attorney's information, (2) but otherwise, shall be chargeable only upon indictment or county attorney's information. In all cases of charges under the schedule of weight violations, the charge shall specify the amount of fine charged under the schedule. Where a defendant is convicted and the fine under the foregoing schedule of weight violations exceeds one

hundred dollars, the conviction shall be of an indictable offense although section seven hundred fifty-three point sixteen (753.16) of the Code is employed and whether the violation is charged upon uniform citation and complaint, indictment, or county attorney's information.

3. VIOLATIONS OF NAVIGATION LAWS.

a. For violations of registration, inspection, identification and record provisions under sections one hundred six point four (106.4), one hundred six point five (106.5), one hundred six point ten (106.10), one hundred six point twenty (106.20), one hundred six point thirty-five (106.35), and one hundred six point thirty-seven (106.37) of the Code, the scheduled fine is five dollars.

b. For unused or improper or defective lights and warning devices under sections one hundred six point nine (106.9), subsections two (2), four (4), five (5), nine (9), ten (10) and thirteen (13), and one hundred six point eleven (106.11) of the Code, the scheduled fine is ten dollars.

c. For unused or improper or defective equipment under section one hundred six point nine (106.9), subsections six (6), seven (7) and eight (8), the scheduled fine is twenty dollars.

d. For operating violations under sections one hundred six point twelve (106.12), one hundred six point fifteen (106.15), subsection two (2), one hundred six point twenty-six (106.26), one hundred six point thirty-one (106.31), whether of state law or local ordinance, and one hundred six point thirty-three (106.33) of the Code, the scheduled fine is twenty dollars: However, violation of section one hundred six point twelve (106.12), subsection two (2) of the Code, is not a scheduled violation.

e. For operating violations under sections one hundred six point fifteen (106.15), subsection one (1), one hundred six point twenty-four (106.24) and one hundred six point thirty-four (106.34) of the Code, the scheduled fine is twenty-five dollars.

f. For violations of use, location and storage of vessels, devices and structures under sections one hundred six point twenty-seven (106.27), one hundred six point twenty-eight (106.28), and one hundred six point thirty-two (106.32) of the Code, the scheduled fine is fifteen dollars.

g. For violations of all subdivision ordinances under section one hundred six point seventeen (106.17), subsection two (2) of the Code, except those relating to matters subject to regulation by authority of

subsection five (5) of section one hundred six point thirty-one (106.31) of the Code, the scheduled fine is ten dollars, whether or not a different scheduled fine is prescribed elsewhere in this subsection.

4. SNOWMOBILE VIOLATIONS.

a. For registration and identification violations under sections three hundred twenty-one G point three (321G.3) and three hundred twenty-one G point five (321G.5) of the Code, the scheduled fine is five dollars.

b. For operating violations under sections three hundred twenty-one G point nine (321G.9), subsections one (1), two (2), three (3), four (4), five (5), and seven (7), three hundred twenty-one G point eleven (321G.11), and three hundred twenty-one G point thirteen (321G.13), subsections four (4) and nine (9) of the Code, the scheduled fine is twenty dollars.

c. For improper or defective equipment under section three hundred twenty-one G point twelve (321G.12) of the Code, the scheduled fine is ten dollars.

d. For violations of section three hundred twenty-one G point nineteen (321G.19) of the Code, the scheduled fine is fifteen dollars.

5. FISH AND GAME LAW VIOLATIONS.

a. For violations of section one hundred ten point one (110.1) of the Code, the scheduled fine is ten dollars: However, engaging without a license in any activity the license fee for which is greater than ten dollars is not a scheduled violation.

b. For violations of sections one hundred nine point fifty-four (109.54), one hundred nine point seventy-six (109.76), one hundred nine point eighty (109.80), unnumbered paragraph one (1), one hundred nine point eighty-two (109.82), one hundred nine point ninety-three (109.93), one hundred nine point ninety-one (109.91), one hundred nine point one hundred twenty (109.120), one hundred nine point one hundred twenty-two (109.122), one hundred ten point twelve (110.12), and one hundred ten point twenty-four (110.24) of the Code, and Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seven (107), section one (1), the scheduled fine is twenty dollars.

6. DESCRIPTION OF VIOLATIONS. The descriptions of offenses used in this section 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.

Sec. ___. Section seven hundred fifty-three point sixteen (753.16), subsections one (1) and two (2), and subsection three (3), paragraph a, Code 1975, are amended to read as follows:

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 the citation and complaint, together with the minimum fine for the violation, plus five dollars cost, to a ~~traffic~~ scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter three hundred twenty-one (321) of the Code, forward a copy of the citation and complaint and admission to the ~~commissioner of public safety~~ department of transportation as required by section 321.207. Thereupon the defendant shall not be required to appear before the court. The admission shall constitute 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 he is required to appear before the court, deliver or mail such copies, together with his or her admission, fine, and five dollars cost, to the ~~traffic~~ scheduled violations office in the county. The procedure, fine and costs shall be the same as when the charge is by citation and complaint, with the admission and the number of the defendant's operator's or chauffeur's license placed upon the information, when the violation involves the use of a motor vehicle.

a. If the defendant wishes to admit the violation, the officer may release the defendant upon observing him mail the citation and complaint, admission, and minimum fine, together with five dollars costs, to a ~~traffic~~ scheduled violations office in the county, in an envelope furnished by the officer. The officer may allow the defendant 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.

Sec. ___. Section seven hundred fifty-three point sixteen (753.16), Code 1975, is amended by adding the following new subsection:

NEW SUBSECTION. The five dollars in costs imposed by this section shall be the total costs collectible

from any defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection four (4) of this section. Fees shall not be imposed upon or collected from any defendant for the purposes specified in subsections nine (9), ten (10) or twenty (20) of section six hundred six point fifteen (606.15) of the Code.

Sec. ___. Section seven hundred fifty-three point seventeen (753.17), Code 1975, is amended to read as follows:

753.17 REQUIRED COURT APPEARANCE. Section 753.16 shall not apply to a scheduled violation in any of the following circumstances:

1. When the violation charged involved or resulted in an accident or injury to person or property.

2. When the violation involved the use of a motor vehicle and the officer believed the defendant did not have in force a valid operator's or chauffeur's license or permit.

3. When ~~the officer believed~~ the violation ~~was hazardous or aggravated~~ created an immediate threat to the safety of other persons or property because of highway conditions, visibility, traffic, repetition, or other circumstances.

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 ~~traffic~~ scheduled violations office and shall endorse thereon "Court appearance required"~~.~~ ~~A~~ and the defendant shall appear before the court ~~for any nonscheduled violation~~ either in person or by attorney.

Sec. ___. Section seven hundred fifty-three point eighteen (753.18), Code 1975, is amended to read as follows:

753.18 OTHER PENALTIES. If the defendant is convicted of a scheduled violation, the penalty shall be the scheduled fine, without suspension of the fine prescribed in section 753.15 together with costs assessed and distributed as prescribed by section 602.63, unless it appears from the evidence that the violation was of the type set forth in section 753.17, ~~subsection~~ subsections one (1) or 3, in which event the ~~punishment shall be increased accordingly within the limits of law~~ scheduled fine shall not apply and the penalty shall be increased within the limits provided by law for the offense.

Upon the conviction of a defendant of a violation

specified in sections seven hundred fifty-three point fifteen (753.15) or seven hundred fifty-three point seventeen (753.17) of the Code, fees shall not be imposed or collected for the purposes specified in subsections nine (9), ten (10), or twenty (20) of section six hundred six point fifteen (606.15) of the Code.

Sec. ___. Section seven hundred fifty-three point nineteen (753.19), Code 1975, is amended to read as follows:

753.19 DISPOSITION OF TRAFFIC FINES AND COSTS.

Fines, forfeiture of bail, fees, and costs collected for all ~~traffic~~ scheduled violations shall be remitted in accordance with section 602.55.

Sec. ___. Section seven hundred fifty-three point twenty (753.20), Code 1975, is amended to read as follows:

753.20 VENUE.

1. ~~Traffic~~ Scheduled violations may be tried before the nearest magistrate in the judicial district in which the offense is committed.

2. Upon written consent of the defendant and the officer ~~who apprehended him~~ issuing the citation, ~~traffic~~ scheduled violations, other than those for which a court appearance is required under section seven hundred fifty-three point seventeen (753.17) of the Code, 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~~ scheduled violations office designated by the defendant and the officer."

2. By renumbering sections of the bill and correcting internal references, as necessary.

H-5512 FILED MARCH 3, 1976 BY DOYLE of Woodbury

Amended by 5537, 5541, 6329 4/4 6330, 6331, 6332 and adopted 4/20 (2=

H-5514

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 2, line 24, by inserting after the word "are" the words "capital felonies,".

2. Page 13A, by striking lines 27 through page 13B line 45 and inserting in lieu thereof the following new sections:

"Sec. __. NEW SECTION. CAPITAL HOMICIDE. A person who with malice aforethought willfully, deliberately, and with premeditation kills another person under one or more of the following circumstances, commits a capital homicide.

1. The killing is perpetrated while the offender is participating in the crime of first degree kidnapping.

2. The killing is perpetrated by an inmate of a jail or correctional institution, against another person who is not an inmate of a jail or correctional institution.

3. The killing is perpetrated by an inmate of a jail or correctional institution, who is serving a life sentence, and is perpetrated against another inmate.

Sec. __. NEW SECTION. APPEAL OF CONVICTION OF CAPITAL HOMICIDE. When reviewing a judgment and sentence of death the supreme court shall in the first instance determine whether errors of law occurring at the trial require reversal or modification of the judgment. Upon determining that errors of law did not occur at the trial which require reversal or modification the supreme court shall set a date for an evidentiary hearing for the purpose of determining if the death sentence comports with the principles of due process and equal protection of the law. At the hearing the supreme court shall determine whether the sentence of death was arbitrarily imposed or the result of discrimination based on race, creed, economic condition, social position, class, or sex of the defendant and shall specifically determine whether the sentence of death is substantially disproportionate to the penalty imposed in similar cases.

Sec. __. NEW SECTION. CRIMINAL HOMICIDE IN THE FIRST DEGREE. A person commits criminal homicide in the first degree when he or she willfully, deliberately and with premeditation commits criminal homicide which is not a capital homicide.

Criminal homicide in the first degree is a class A felony.

Sec. __. NEW SECTION. CRIMINAL HOMICIDE IN THE SECOND DEGREE. A person commits criminal homicide

in the second degree when he or she commits criminal homicide which is not capital homicide or homicide in the first degree.

Criminal homicide in the second degree is a class B felony."

3. Page 90, line 34, by inserting after the word "recognizance," the words "unless charged with a capital felony when the proof is evident or the presumption great, and".

4. Page 216, by inserting after line 1 the following new sections:

"Sec. __. NEW SECTION. CAPITAL FELONY. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a capital felony may be rendered the court shall enter a judgment and shall commit the defendant to the director of the division of adult corrections for execution of the death penalty. Nothing in this chapter pertaining to deferred judgment, suspended sentence or probation shall apply to a capital felony, and a person convicted of a capital felony shall not be released on parole.

Sec. __. NEW SECTION. TIME OF EXECUTION. When the court directs that a defendant be punished by death, it shall fix the day of the execution, which shall not be less than one year after the day on which the judgment is rendered, and not longer than fifteen months, during which time the defendant shall be imprisoned in the penitentiary.

Sec. __. NEW SECTION. RECORD SENT GOVERNOR. Immediately after entry of judgment of death, the court rendering the judgment shall transmit by mail to the governor a copy of the indictment, plea, verdict, judgment, and testimony in the case.

Sec. __. NEW SECTION. COPY OF JUDGMENT AUTHORITY FOR EXECUTION. When a judgment of death is pronounced, a certified copy of the entry thereof in the record book must be furnished to the officer whose duty it is to execute the same, who shall proceed accordingly, and no other warrant or authority is necessary to require or justify the execution.

Sec. __. NEW SECTION. REPRIEVE OR SUSPENSION. The only officers who shall have power to reprieve or suspend the execution of a judgment of death are the governor and, as provided in this chapter, the warden of the penitentiary, and the supreme court when an appeal is taken.

Sec. __. NEW SECTION. INSANITY OR PREGNANCY. When the warden of the penitentiary has reasonable grounds to believe that a defendant in his or her

charge under sentence of death is insane or pregnant, he or she shall notify the commissioners of hospitalization of the county where the penitentiary is located, who shall be placed under oath by the warden to inquire into the facts as to the insanity or pregnancy of the defendant, and return a report of their findings.

Sec. __. NEW SECTION. FINDING OF COMMISSIONERS. The commissioners, after being placed under oath, shall examine the defendant and hear any evidence that may be presented, and may examine the medical attendants at the penitentiary, to ascertain the facts, and make a report in writing, signed by a majority of the commissioners.

Sec. __. NEW SECTION. EXECUTION SUSPENDED. If the report does not show the defendant to be insane or pregnant, the warden shall not suspend the execution; but if it does, he or she shall suspend the execution, and immediately transmit the report to the governor.

Sec. __. NEW SECTION. EXECUTIVE WARRANT OF EXECUTION. When a judgment of death from any cause has not been executed on the day appointed by the court, the governor, by a warrant under the seal of the state, shall fix the day of execution, and the warrant shall be obeyed by the sheriff, and no one but the governor can then suspend its execution.

Sec. __. NEW SECTION. TIME AND MANNER OF EXECUTION. A judgment of death must be executed by the sheriff of the county where the judgment was rendered, or his or her deputy, within the walls of the penitentiary where the defendant is confined, or within a yard or enclosure adjoining the penitentiary, on the day fixed in the judgment, between sunrise and sunset; by passing an electric current, of sufficient intensity and duration to cause death, through the body of the convicted person.

Sec. __. NEW SECTION. WITNESSES TO EXECUTION. The sheriff or his or her deputy must, at least three days before executing a judgment of death, notify the judge of the district court who tried the case, or, if he or she be not in office, another judge of such court, the county attorney and the clerk of the district court of the county in which the judgment was rendered, the sheriff of the county in which the offense was committed, and two physicians and twelve citizens of the state to be selected by him or her to be present as witnesses at the execution. He or she must also, at the request of the defendant, permit one or more ministers of the gospel, named by him

or her, and any of his or her relatives, to attend the execution. Minors and persons not authorized by this section shall not be present at the execution.

Sec. __. NEW SECTION. CERTIFICATE OF EXECUTION. The sheriff or his or her deputy executing the judgment of death must prepare and sign a certificate, setting forth the time and place of the execution, and that judgment was executed upon the defendant according to the provisions of this chapter, and cause the certificate to be signed by the public officers, and at least twelve persons, who are not relatives of the defendant, who witnessed the execution.

Sec. __. NEW SECTION. CERTIFICATE FILED AND PUBLISHED. The sheriff or his or her deputy executing the judgment must file the certificate in the office of the clerk of the district court of the county in which the judgment was rendered, and publish a copy of the certificate in one newspaper printed at the capital of the state, and in one in his or her county.

Sec. __. NEW SECTION. STAY OF EXECUTION BY APPEAL. An appeal from a judgment of death shall stay the infliction of that punishment, but the defendant is to be retained in custody without bail.

Sec. __. NEW SECTION. PROCEEDINGS ON APPEAL. When an appeal is taken from a judgment of death, the clerk of the district court in which it was rendered shall at once give the defendant or his or her attorney a certificate, under the seal of the court, certifying that fact, and the sheriff or other officer having the defendant in custody shall, upon the delivery to him or her of the certificate, suspend further proceedings on the judgment until final judgment on the appeal is certified to him or her by the clerk of the supreme court.

Sec. __. NEW SECTION. PROCEEDINGS ON AFFIRMANCE--ISSUANCE OF WARRANT. When such judgment is affirmed, the supreme court shall deliver a copy of the judgment to the governor, and to the sheriff whose duty it is to execute the judgment, signed by the clerk of the supreme court and under seal of the court, and the governor shall issue a warrant of execution under the seal of the state, and transmit it by messenger or mail to the sheriff whose duty it is to execute the judgment, directing him or her, on a day and at an hour, not earlier than the day fixed by the district court, to execute such judgment in the manner required by law.

Sec. __. NEW SECTION. EXECUTION OF WARRANT. The sheriff shall execute such warrant in the manner provided in this chapter, and report the sheriff's

doings to the governor and the district court whose judgment was appealed from, and make the publication of the sheriff's doings in the manner provided for in this chapter. If from any cause the judgment is not executed on the day named in the warrant, the governor may appoint another, and so on until it is done."

5. By renumbering the remaining sections and internal references to accord with this amendment.

H-5695

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. By striking page 13A, line 23 through page 13C, line 73 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. HOMICIDE DEFINED. Homicide is the killing of a person by another.

Sec. ___. NEW SECTION. MURDER IN THE FIRST DEGREE. A person commits murder in the first degree under any of the following circumstances:

1. The person with either express or implied malice aforethought deliberately and wirh premeditation commits homicide.

2. The person commits homicide while participating in a forcible felony.

3. The person commits homicide while escaping or attempting to escape from lawful custody.

Murder in the first degree is a class A felony.

Sec. ___. NEW SECTION. MURDER IN THE SECOND DEGREE. A person commits murder in the second degree when such person with either express or implied malice aforethought commits homicide which is not murder in the first degree.

Murder in the second degree is a class B felony.

Sec. ___. NEW SECTION. VOLUNTARY MANSLAUGHTER. A person commits voluntary manslaughter when such person intentionally commits a homicide solely as the result of sudden, violent, and irresistable passion caused by adequate provocation 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.

Voluntary manslaughter may be proved as an included offense under an indictment for murder in the first or second degree.

Voluntary manslaughter is a class C felony.

Sec. ___. NEW SECTION. INVOLUNTARY MANSLAUGHTER.

1. A person commits involuntary manslaughter and is guilty of a class D felony when such person unintentionally commits a homicide by the commission of a public offense other than a forcible felony or an escape or attempt to escape from lawful custody.

2. A person commits involuntary manslaughter and is guilty of an aggravated misdemeanor when such person unintentionally commits a homicide by the commission of an act in a manner likely to cause death or serious injury.

Involuntary manslaughter is not an included offense under an indictment for murder in the first

or second degree or voluntary manslaughter."

2. Renumber sections and correct internal references in conformance with this amendment.

H-5695 FILED MARCH 10, 1976 BY BRANSTAD of Winnebago

Withdrawn 3/11 (p. 1120)

H-5693

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 12, line 30, by striking the words "voluntary alliance" and inserting in lieu thereof the word "combination".

2. Page 12, line 32, by striking the words "voluntary alliance" and inserting in lieu thereof the word "combination".

3. Page 13A, by striking lines 2 through 4 and inserting in lieu thereof the following: "in such county; provided, that a person may not be prosecuted more than once for a conspiracy based on the same agreement or combination."

H-5693 FILED BY KREAMER of Polk
MARCH 10, 1976 adopted 3/11 (p. 1119)

H-5694

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 13A, by striking lines 5 through 15 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. PENALTIES. Conspiracy to commit a forcible felony is a class C felony. Conspiracy to commit a felony other than a forcible felony is a class D felony. Conspiracy to commit a misdemeanor of some class is a misdemeanor of the same class."

2. Renumber sections and correct internal references in conformance with this amendment.

H-5694 FILED BY KREAMER of Polk
MARCH 10, 1976 withdrawn 3/11 (p. 1120)

H-5696

Amend amendment H-5075 to page 13B of Senate File 85 as reprinted as follows:

1. By striking lines 7, 8 and 9 and inserting in lieu thereof the following: "is imprisoned in a correctional institution under the jurisdiction of the department of social services, or in a city or county jail."

H-5696 FILED BY SPEAR of Lee
MARCH 10, 1976 Adopted 3/11 (p. 1121)

SENATE FILE 85

H-5697

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 30, by inserting after line 15, the following new section:

"Sec. ___. NEW SECTION. PURCHASE OR SALE OF ARTICLES FROM WHICH IDENTIFICATION MARKS HAVE BEEN REMOVED. Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a radio, piano, phonograph, sewing machine, washing machine, typewriter, adding machine, comptometer, bicycle, firearm, safe, vacuum cleaner, dictaphone, watch movement, watch case, or any mechanical or electrical device, appliance, contrivance, material, piece of apparatus or equipment, from which the manufacturer's name plate, serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, is guilty of a serious misdemeanor.

This section does not apply to those cases or instances where any of the changes or alterations enumerated in this section have been customarily made or done as an established practice in the ordinary and regular conduct of business by the original manufacturer or by a duly appointed direct representative, or by other specific authorization from the original manufacturer."

2. By renumbering the remaining sections and internal references to accord with this amendment.

H-5697 FILED BY WYCKOFF of Benton Motion to reconsider 3/16 (1189)
MARCH 10, 1976 Adopted 46-37 3/16 (1185) " prevailed 4/21 (2077)
Withdrawn 4/21 (2077) Withdrawn 4/21 (2077)

H-5698

Amend the Jesse amendment H-5418, by striking lines 4 and 5 and inserting in lieu thereof the words "or other living creature".

H-5698 FILED BY BENNETT of Ida
MARCH 10, 1976 Out of order 4/22 (2162)

H-5699

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 35, by inserting after line 3 the following new section:

"Sec. ___. NEW SECTION. REMOVAL OF SAFEGUARDS OR DANGER SIGNALS. Whoever shall, without the consent of the person in control thereof, willfully remove, throw down, destroy, or carry away from any highway, street, alley, avenue, or bridge, any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue, or bridge, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail not exceeding one year."

2. Renumber sections and correct internal references in conformance with this amendment.

H-5699 FILED MARCH 10, 1976 BY KREAMER of Polk

Lost 3/16 (1188)

H-5700

Amend Senate File 85 as follows:

1. Page 247, by striking lines 22 through 35.

2. Page 248, by striking lines 1 through 18.

3. Page 424, line 13, by inserting after the word "Chapters" the words "thirty-eight (38),"

H-5700 FILED MARCH 10, 1976 BY KRAUSE of Palo Alto, MONROE of Des Moines

Adopted 4/19 (2006)

H-5701

Amend Senate File 85 as follows:

1. Page 317 by inserting the following after line 16:

New Section: Minimum Sentence. The court shall have the discretion of setting a minimum period a person will be held in custody of up to one-half the maximum indeterminate sentence for persons convicted under section A and B of Section 224 unless the drug sold is a substance included in Schedule III, or is marijuana, or the sale was made in accommodation.

H-5701 FILED MARCH 10, 1976 BY WOODS of Polk

Adopted 4/19 (2008)

H-5702

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 217A, by striking lines 21 through 34.

H-5702 FILED MARCH 10, 1976 BY SPEAR of Lee

Lost 4/1 (1534)

H-5703

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 217A, line 30, by striking the word "five" and inserting in lieu thereof the word "three".

H-5703 FILED BY SPEAR of Lee
MARCH 10, 1976 Lost 4/1 (1534)

H-5704

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 36, line 13, by striking the words "an aggravated" and inserting in lieu thereof the words "a simple".

H-5704 FILED - Lost BY BENNETT of Ida
MARCH 10, 1976 3/17 (1219)

H-5705

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 225A, by striking lines 31 through 35 and inserting in lieu thereof the following:

"If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more convictions for any felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the defendant has served at least one-half of the maximum term of his sentence."

2. Page 225B, by striking lines 36 and 37.

H-5705 FILED BY BENNETT of Ida
MARCH 10, 1976 Ruled out of order with adoption of 1939 4/14

H-5706

Amend amendment H-5639, to page 4 of Senate File 85, as follows:

1. Page 1, line 14, by striking "a physician" and inserting in lieu thereof "two physicians".

H-5706 FILED, ADOPTED BY SCHROEDER of Pottawattamie
MARCH 10, 1976 (1064) HARGRAVE of Johnson

H-5707

Amend the VArley et al Amendment H-5639 to S.F. 85 as follows:

1. Page 1, line 17, after the period, add the following:

" Death is to be pronounced before artificial means of supporting respiratory and circulatory function are terminated and before any vital organ is removed for purposes of transplantation."

H-5707 FILED, WITHDRAWN BY HARGRAVE of Johnson
MARCH 10, 1976 (1064)

SENATE FILE 85

H-5708

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 7, line 23, by striking the word "felon" and inserting in lieu thereof the words "person accused of committing the felony".

2. Page 7, line 24, by striking the words "of the felon" and inserting in lieu thereof the words "of the accused person" and by striking the words "conceals the felon" and inserting in lieu thereof the words "conceals the accused person".

3. Page 7, line 28, by striking the word "offender" and inserting in lieu thereof the words "person accused of committing the misdemeanor".

4. Page 7, line 29, by striking the word "offender" and inserting in lieu thereof the words "accused person".

5. Page 7, line 30, by striking the word "offender" and inserting in lieu thereof the words "accused person".

H-5708 FILED MARCH 10, 1976 - adopted 3/10 (1075)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5528

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 137, line 26, by striking the words "A witness who is subpoenaed".

2. Page 137, by striking lines 27 and 28.

H-5528 FILED MARCH 4, 1976
adopted 47-25 3/30 (1481)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5529

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 138, line 9, by striking the words "without adequate excuse".

2. Page 138, line 12, by striking the word "attachment" and inserting in lieu thereof the word "warrant".

H-5529 FILED MARCH 4, 1976
adopted 3/30 (1483)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5530

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 154, by striking lines 5 through 8.

2. By renumbering the remaining subsections and internal references to accord with this amendment.

H-5530 FILED MARCH 4, 1976
adopted 3/31 (1501)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5531

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 155, line 27, by inserting after the words "a verdict" the word "unanimously" and by striking the words "with not more than".

2. Page 155, line 28, by striking the words "one dissenting vote".

3. Page 155, line 31, by striking the words "more than one" and inserting in lieu thereof the word "any".

H-5531 FILED MARCH 4, 1976
adopted 3/31 (1501)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5532

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 160, line 35, by striking the words "and determined".

H-5532 FILED MARCH 4, 1976
adopted 3/31 (1502)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5533

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 165A, line 26, by striking the words "or a judge".

2. Page 165A, by striking lines 30 through 35 and inserting in lieu thereof the following:

"d. The magistrate may cause to have removed from the courtroom any person whose exclusion is necessary to preserve the integrity or order of the proceedings."

H-5533 FILED MARCH 4, 1976
adopted 3/31 (1503)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5534

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 170, by striking lines 17 through 26.

H-5534 FILED MARCH 4, 1976
adopted 3/31 (1506)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5535

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 170, by striking lines 27 through 30.

2. Page 191, by inserting after line 33 the following new section:

"Sec._____. NEW SECTION. ADDITIONS TO AND AMENDMENT OF RULES. The rules of criminal procedure may be amended, provisions deleted, and new rules added, in the manner prescribed for civil rules under chapter six hundred eighty-four (684) of the Code."

H-5535 FILED MARCH 4, 1976
adopted 3/31 (1506)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5536

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 184, by striking lines 12 through 15 and inserting in lieu thereof the words "prosecuting attorney of the trial date and shall advise the defendant that the trial will be without a jury unless demand for jury trial is made at least ten days prior to the date set for trial. Failure to make a jury demand in the manner".

H-5536 FILED MARCH 4, 1976
adopted 3/31 (1506)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5537

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 189, lines 5 and 6, by striking the words "to him if required in the interest of justice" and inserting in lieu thereof the words "pursuant to the grounds set forth in Rule 23, except that a motion for a new trial based on newly discovered evidence must be made within six months after the final judgment".

H-5537 FILED MARCH 4, 1976
adopted 3/31 (1507)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISON
JESSE of Polk, Chair

H-5538

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 328, by inserting after line 11 the following:

"Sec. ____. Chapter two hundred forty-five (245), Code 1975, is amended by adding the following new section:

NEW SECTION. FEDERAL PRISONERS. Convicts sentenced for any term by any court of the United States may be received by the superintendent into the women's reformatory and there kept in pursuance of their sentences. Convicts at the women's reformatory may also be transferred to the federal bureau of prisons."

2. Page 328, by inserting after line 21, the following:

"Sec. ____. Section two hundred forty-six point eleven (246.11), Code 1975, is amended to read as follows:

246.11 FEDERAL PRISONERS. Convicts sentenced for any term ~~at hard labor~~ by any court of the United States may be received by the warden into the penitentiary or the men's reformatory and there kept in pursuance of their sentences. Convicts at either the penitentiary or men's reformatory may also be transferred to the federal bureau of prisons."

3. By renumbering the remaining section to accord with this amendment.

H-5538 FILED MARCH 4, 1976
adopted 4/19 (2010)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5559

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 1, by striking lines 19 through 26 and inserting in lieu thereof the following:

"NEW SECTION. INSANITY. No person shall be convicted of any crime if, at the time such crime is committed, as a result of mental disease or mental defect, the person lacks substantial capacity either to appreciate the criminality of his or her conduct or to conform his or her conduct to the law. As used in this section, the terms "mental disease or mental defect" do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct."

H-5559 FILED - Lost 3/9 (1029)
MARCH 5, 1976

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5560

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 55, by striking lines 13 through 16.
2. Page 55, by striking lines 30 through page 56, line 3.
3. Page 181, by striking lines 4 through 7.
4. By renumbering the remaining sections to accord with this amendment.

H-5560 FILED
MARCH 5, 1976
Withdrawn 3/20 (1301)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5561

A

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 15A, line 20, by striking the words "Any person who".
2. Page 15A, by striking lines 21 through 31.

B

3. Page 15B, by striking lines 57 through 68.
4. By renumbering the remaining sections and internal references to accord with this amendment.

H-5561 FILED
MARCH 5, 1976
A - Lost 14-81 3/15 (1140)
B - Lost 20-67 3/15 (1143)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5562

Amend the Spear amendment H-5024 to page 216 A of Senate file 85 as reprinted as follows:

1. By striking lines 3 and 4 and inserting in lieu thereof the following:

"1. Page 216A, line 14, by striking the words "five years of a life sentence" and inserting in lieu thereof the words "ten years of a life sentence imposed for other than murder in the first degree, or fifteen years of a life sentence imposed for murder in the first degree".

H-5562 FILED
MARCH 5, 1976

BY SPEAR of Lee
Ruled out of order with adoption of 5743 4/1 (1525)

H-5563

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 216A, line 28, by striking all after the word "division" and lines 29 and 30 and inserting in lieu thereof the following: ", and the court may in its discretion order the director of adult corrections to hold the offender in custody for a minimum period up to but not to exceed one-half of the maximum indeterminate sentence provided for by section two hundred eleven (211) of this division."

H-5563 FILED BY BENNETT Of Ida
MARCH 5, 1976 withdrawn 4/1 (1525)

H-5564

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 225A, by striking lines 31 through 35 and inserting in lieu thereof the following:

"If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more convictions for any felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the defendant has served at least one-half of the maximum term of his sentence."

2. Page 225B, by striking lines 36 and 37.

H-5564 FILED BY BENNETT of Ida
MARCH 5, 1976 Rules out of order upon adoption of 6085 4/14 (1939)

H-5565

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 36, line 13, by striking the word "aggravated" and inserting in lieu thereof the word "simple".

H-5565 FILED BY BENNETT of Ida
MARCH 5, 1976 withdrawn 3/17 (1219)

H-5566

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 57B, by adding after line 41 the following:

"A person having responsibility for operation of a health care facility licensed under chapter one hundred thirty-five C (135C) of the Code who knowingly allows another person to violate this section commits a serious misdemeanor.

Sec. _____. NEW SECTION. MISTREATMENT OF RESIDENT OF HEALTH CARE FACILITY.

1. A person who willfully, wantonly, or miliciously mistreats any resident of a health care facility as defined in chapter one hundred thirty-five C (135C) of the Code commits a class D felony.

2. As used in this section the word "mistreat" means treatment or lack of treatment to such an extent that the physical or mental health of a resident is adversely affected, including but not limited to the following:

a. Willful failure to follow a physician's orders.

b. Willful and repeated violations of statutes and rules regarding the care of residents of health care facilities.

c. Failure to properly clothe, feed, groom or clean residents.

d. Transfer of residents between facilities without the permission of the resident's physician.

3. Any person having responsibility for operation of a health care facility licensed under chapter one hundred thirty-five C (135C) of the Code who willfully, wantonly, or maliciously allows another person to violate this section shall commit a class D felony."

H-5566 FILED BY LIPSKY of Linn
MARCH 5, 1976 HIGGINS of Scott Amended by 6349 and 6348 and lost 4/20 (2045)

H-5574

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 424, line 20, by striking the words "seven hundred" after the words "seven hundred one (701),".

2. Page 424, line 21 by striking the word and figures "two (702),".

H-5574 FILED BY KREAMER of Polk
MARCH 5, 1976 SPENCER of Clay
Lost 40-49 4/20 (2035)

H-5575

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 318, by inserting after line 6, the following new section:

"Sec. ___. Section two hundred four point four hundred one (204.401), Code 1975, is amended by striking subsection three (3) and inserting in lieu thereof the following:

3. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who is convicted of a violation of this subsection shall be punished as follows:

a. If the controlled substance is a controlled substance which is not marijuana, the person shall be guilty of a serious misdemeanor.

b. If the controlled substance is marijuana in an amount in excess of one ounce, the person shall be guilty of a simple misdemeanor.

c. If the controlled substance is marijuana in an amount of one ounce or less the person shall be subject to a civil fine of not to exceed one hundred dollars. Any person who violates the provisions of this subsection shall be issued a citation and be treated as provied in chapter two (2), division five (V) of this Act. Any person who possesses one ounce of marijuana or less shall be conclusively presumed to possess the marijuana for personal use and not for manufacture or delivery.

All or any part of a sentence imposed pursuant to this section may be suspended and the person placed on probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court."

H-5575 FILED MARCH 5, 1976
Lost 34-60 4/19 (2018)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SBUCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

Motion to reconsider filed 4/19 (2023)
" lost 4/22 (2159)

H-5576

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 227A, line 8, by striking all after the word "reside." and line 9 and inserting in lieu thereof the following:

"No person shall be released on parole until the board of parole shall have satisfactory evidence that arrangements have been made for his employment or maintenance. The chief parole officer may render assistance to prisoners about to be paroled in procuring employment and the necessary expense incident thereto shall be paid as other expenses of the chief parole officer are paid."

H-5576 FILED MARCH 5, 1976

BY WELDEN of Hardin

Ruled out of order with adoption of 5165 4/14 (1942)

H-5577

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 153, line 30, by inserting after the word "thereof." the following:

"It shall not be a requirement of this section that corroboration be necessary to obtain a conviction where the solicited person is a law enforcement agent, employee, official, or person working on behalf of a law enforcement agency within the scope of his employment."

H-5577 FILED BY WYCKOFF of Benton
MARCH 5, 1976 adopted 3/31 60-25 (1500)

H-5578

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 238A, line 4, by inserting after the word "officer" the words "or any peace officer".

H-5578 FILED BY WYCKOFF of Benton
MARCH 5, 1976 Lost 43-49 4/14 (p. 1948)

H-5579

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 217A, by striking lines 21 through 34 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. USE OF A FIREARM IN THE COMMISSION OF A FELONY. In addition to any other penalty imposed by law, a person convicted of a felony and who used, threatened to use, or displayed in a threatening manner a firearm while participating in the felony shall be imprisoned in the state penitentiary for five years. A sentence imposed pursuant to this section shall not run concurrently with the sentence imposed for the commission of the felony. A person sentenced pursuant to this section shall not be eligible for parole until he or she has served five years of his or her sentence."

2. Page 229, line 20, by inserting after the word "felony" the words ", a public offense for which a minimum sentence is imposed".

H-5579 FILED BY KREAMER of Polk
MARCH 5, 1976 Lost 38-53 4/1 (1533)

H-5580

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 215, by inserting after line 28 the following new paragraph:

"The department of social services shall confine the defendant at whichever institution is appropriate among the following institutions:

The Iowa training school for boys.
The Iowa training school for girls.
The women's reformatory.
The men's reformatory.
The state penitentiary.
The Iowa security medical facility.
The correctional release center.
Camps supervised by the department of social services.
Other facilities not attached to the campus of one of these institutions.

The department of social services shall neither close or discontinue the operation of the first six named institutions unless the closing or discontinuation is specifically authorized by law."

H-5580 FILED BY WYCKOFF of Benton
MARCH 5, 1976 Withdrawn 4/1 (1523)

H-5582

Amend the amendment, H-5514, to Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 1, by inserting after line 23 the following:

"4. The killing is perpetrated for compensation. A Lost 49-49

5. The killing is perpetrated against a peace officer, while the peace officer is engaged in the performance of his duties. B - Lost 41-56

6. The killing is perpetrated as a part of a course of conduct involving the intentional killing of two or more persons." C - Lost 44-50

H-5582 FILED - Lost BY KREAMER of Polk
MARCH 5, 1976 3/9 (pp. 1034, 1035, 1036)

H-5583

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 18, by striking lines 5 through 8.
2. Renumber subsections accordingly.

H-5583 FILED BY KREAMER of Polk
MARCH 5, 1976 - Adopted 3/15 (1147)

H-5584

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 26, line 6, by striking the words "felony, assault or theft therein" and inserting in lieu thereof the words "public offense".

H-5584 FILED BY KREAMER of Polk
MARCH 5, 1976 Lost 3/16 (1180) 38-42

H-5586

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 63, by striking lines 24 through 35 and inserting in lieu thereof the following:

"Sec. ____. NEW SECTION. LOCAL ORDINANCES OR REGULATION. A political subdivision of this state may adopt an ordinance, resolution, or regulation providing for the regulation of obscene material if the ordinance, resolution, or regulation is consistent with the provisions of this division, however, the ordinance, resolution, or regulation may govern the dissemination or use of obscene material by adults."

H-5586 FILED MARCH 5, 1976 BY KREAMER of Polk

Withdrawn 4/21 (2065)

H-5587

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 220A, by striking lines 15 through 19 and inserting in lieu thereof the following: "provided, that in the case of theft in the fourth degree the sentence may include both imprisonment not to exceed thirty days and a fine in an amount not to exceed the greater of one hundred dollars or three times the value of the property stolen."

H-5587 FILED MARCH 5, 1976 BY KREAMER of Polk

Ruled out of order with adoption of 5667 4/2

H-5588

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 19A, by striking lines 20 through 31 and inserting in lieu thereof the following:

"Sec. 903. NEW SECTION. SEXUAL ABUSE IN THE SECOND DEGREE. A person commits sexual abuse in the second degree under any of the following circumstances:

1. In the course of such act, he or she displays in a threatening manner a deadly weapon or uses or threatens to use force creating a substantial risk of death or serious injury to any other person.

2. The other participant is under 16 years of age, the actor is a member of the same household as the other participant and they are related by blood or affinity within the fourth degree of consanguinity.

3. The actor is aided or abetted by another person or persons, and the sex act is committed by force and against the will of the other.

4. The other participant is under the age of twelve."

H-5588 FILED MARCH 5, 1976 BY KREAMER of Polk

Withdrawn 3/16 (1168)

H-5589

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 106, line 27, by striking the words "OR TAPE RECORDER".
2. Page 106, line 29, by striking the words "or recording equipment".
3. Page 106 by striking lines 31 through 35.
4. Page 107 by striking lines 1 and 2.
5. Page 107, line 19, by striking the word and figure "two (2)" and inserting in lieu thereof the word and figure "one (1)".
6. Page 107, line 19, by striking the word "may" and inserting in lieu thereof the word "shall".
7. Page 107, line 20, by striking the words "a tape of the recorded proceedings or".
8. Renumber the sections accordingly.

H-5589 FILED BY KREAMER of Polk
MARCH 5, 1976 Withdrawn 3/25 (1416)

H-5590

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 220A, line 8, by striking the word "two" and inserting in lieu thereof the word "five". A-
2. Page 220A, line 14, by striking the words "thirty days" and inserting in lieu thereof the words "six months". B-
3. Page 220A, line 14, by striking the word "one" and inserting in lieu thereof the word "five". C-

H-5590 FILED BY KREAMER of Polk
MARCH 5, 1976 Withdrawn 4/2 (1571)

H-5591

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 225A, line 22, by striking the word "him" and inserting in lieu thereof the following: "that person, except that in the case of a person committed under a sentence imposing a minimum term of imprisonment, a member of the board shall interview that person within one year after the person has been confined for that minimum term".

H-5591 FILED BY KREAMER of Polk
MARCH 5, 1976 Lost 4/12 (1878) 31-50

H-5599

Amend Senate File 85 as follows:

1. Title page by striking line 8.

H-5599 FILED MARCH 8, 1976
Ruled out of order 3/9 (p. 1027)

BY HALVORSON of Clayton, VARLEY of Adair, DAGGETT of Adams, BROCKETT of Marshall, EVANS of Grundy, MILLER of Cerro Gordo, WEST of Marshall, DEN HERDER of Sioux, NEALSON of Muscatine, LAGESCHULTE of Bremer, PERKINS of Greene, HANSEN of O'Brien, WOODS of Polk, BORTELL of Madison, DANERK of Pottawattamie, PELLETT of Cass, HUSAK of Tama, WYCKOFF of Benton, CRABB of Crawford, JUNKER of Woodbury, BRANSTAD of Winnebago, BENNETT of Ida, MILLEN of Van Buren, WELDEN of Hardin, WULFF of Black Hawk, DIELEMAN of Marion, HARVEY of Scott, LINDEEN of Henry, STROMER of Hancock, SPENCER of Clay, DRAKE of Muscatine, BAKER of Buena Vista, MENKE of O'Brien, KREAMER of Polk, McELROY of Fremont

H-5611

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 28A, line 26, by inserting after the word "battle," the words "or the theft of a motor vehicle of a value exceeding five thousand dollars,".

2. Page 28A, lines 32 and 33, by striking the words ", irrespective of value," and inserting in lieu thereof the words "of a value less than five thousand dollars".

H-5611 FILED MARCH 8, 1976
BY KREAMER of Polk
Lost 3/16 23-49 (1182)

H-5612

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 218, line 15, by inserting after the word "for" the words "not less than fifteen years and".

2. Page 218, line 17, by inserting after the word "for" the words "not less than ten years and".

3. Page 218, line 20, by inserting after the word "for" the words "not less than five years and".

H-5612 FILED MARCH 8, 1976
BY KREAMER of Polk
B. Withdrawn
A. Lost 4/2 (1559)

H-5613

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 11, line 2, by striking the word "police" and inserting in lieu thereof the words "law enforcement".

2. Page 11, line 10, by inserting after the words "with the" the words "express or implied".

H-5613 FILED MARCH 8, 1976
BY WELDEN of Hardin
Ruled out of order with adoption of 5429 3/11 (1106)

H-5617

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 22, line 11, by striking the words "and removes".

2. Page 22, line 12, by striking the words "him from the state,".

H-5617 FILED BY LAGESCHULTE of Bremer
MARCH 8, 1976 Lost 3/16 (1173)

H-5618

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 61, line 21 by inserting after the word "simulated," the words "either natural or deviate,".

2. Page 61, line 22 by striking the words "either natural or deviate,".

H-5618 FILED BY KREAMER of Polk
MARCH 8, 1976 Adopted 4/21 (2065)

H-5619

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 27A, line 31, by inserting after the word "Takes" the words ", destroys, conceals".

H-5619 FILED BY OAKLEY of Clinton
MARCH 8, 1976 Adopted 3/16 (1180)

H-5620

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 2, by striking lines 17 through 20 and inserting in lieu thereof the following:

"3. He acts in reliance upon an official opinion of the attorney general of this state, as expressed in opinions of the attorney general, which would have absolved him from guilt and which is found to be in error by a court of law."

H-5620 FILED BY KREAMER of Polk
MARCH 8, 1976 Withdrawn 3/9 (1029)

H-5621

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 10, by striking lines 13 through 17 and inserting in lieu thereof the following:

"Sec. 407. NEW SECTION. RESISTING FORCIBLE FELONY. If a forcible felony is being perpetrated, a person is justified in using, against the felon, reasonable force to prevent the completion of that felony."

H-5621 FILED BY KREAMER of Polk
MARCH 8, 1976 - Withdrawn 3/10 (1077)

H-5622

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 7, line 16, by striking the words "which he did not".

2. Page 7, line 17, by striking the words "expressly or tacitly acquiesce in" and inserting in lieu thereof the words "in which he did not consent".

H-5622 FILED BY KREAMER of Polk
MARCH 8, 1976 Adopted 3/[illegible] (1234)

H-5623

Amend Senate File 85 as amended and passed by the Senate and reprinted, page 9, line 31, by inserting after the word "of" the words "his rights in property or in any public".

H-5623 FILED adopted BY JUNKER of Woodbury
MARCH 8, 1976 3/10 (1077)

H-5624

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 3, line 17, by striking the word "meanings" and inserting in lieu thereof the word "meaning".
2. Page 3, line 17, by inserting after the word "term" the words ", word, or phrase".

H-5624 FILED BY JUNKER of Woodbury
MARCH 8, 1976 - withdrawn 3/10 (1061)

H-5625

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

A 1. Page 7, line 32, by inserting after the word "officer" the word ", director,".

B 2. Page 7, line 33, by striking the word "a" and inserting in lieu thereof the words "the same".

H-5625 FILED BY JUNKER of Woodbury
MARCH 8, 1976 - adopted 3/10 (1075)

H-5626

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

B 1. Page 8, line 15, by striking the words "public offense" and inserting in lieu thereof the words "simple misdemeanor".

2. Page 8, line 21, by inserting after the word

A "officer" the word ", director,".

3. Page 8, line 22, by striking the words "his authority" and inserting in lieu thereof the words "the authority of the agent, officer, director of employee".

H-5626 FILED BY JUNKER of Woodbury
MARCH 8, 1976 - adopted 3/10 (1076) Recommend A - adopted, B - Lost 3/10 (1077)

H-5627

Amend Senate File 85 as amended and passed by the Senate and reprinted, page 9, line 31, by inserting after the word "of" the words "his rights in property or in any public".

H-5627 FILED BY JUNKER of Woodbury
MARCH 8, 1976 withdrawn 3/10 (1077)

H-5628

Amend Senate File 85, as amended and passed by the Senate and reprinted, page 3, line 26, by striking the words "principally or regularly".

H-5628 FILED BY JUNKER of Woodbury
MARCH 8, 1976 Lost 3/10 (1061)

H-5629

Amend Senate File 85, as amended and passed by the Senate and reprinted, page 4, line 12, by inserting after the word "weapon." the following: "Dangerous weapons include, but are not limited to, any offensive weapon, pistol, revolver, or other firearm, dagger, razor, stilletto, or knife having a blade of three inches or longer in length."

H-5629 FILED BY JUNKER of Woodbury
MARCH 8, 1976 Adopted 3/10 (1062)

H-5631

Amend Senate File 85, as amended and passed by the Senate and reprinted, page 6, by striking lines 13 through 16 and inserting in lieu thereof the following: "or acts recklessly when he intentionally acts in such manner to indicate a disregard for the safety of persons or property."

H-5631 FILED BY BRANSTAD of Winnebago
MARCH 8, 1976 Withdrawn 3/10 (1072)

H-5632

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 6, by striking lines 7 and 8 and inserting in lieu thereof the following: "circumstances as a reasonable person would believe them to be. The fact that".

H-5632 FILED BY BRANSTAD of Winnebago
MARCH 8, 1976 Withdrawn 3/10 (1071)

H-5635

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 5, line 21, by inserting after the word "during" the words "part or". A
2. Page 5, line 22, by striking the word "directly". B

H-5635 FILED BY BRANSTAD of Winnebago
MARCH 8, 1976 A- Adopted, B- Lost 26-49 3/10 (1066)

H-5636

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 5, line 16, by inserting after the words "therein, or" the word "adapted".

H-5636 FILED - Lost BY BRANSTAD of Winnebago
MARCH 8, 1976 3/10 (1066)

H-5637

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 5, line 11, by striking the words "in the first degree".

H-5637 FILED BY BRANSTAD of Winnebago
MARCH 8, 1976 Withdrawn 3/10 (1066)

H-5638

Amend Senate File 85 as amended and passed by the Senate and reprinted, page 4, line 10, by striking the word "serious".

H-5638 FILED BY BRANSTAD of Winnebago
MARCH 8, 1976 Lost 3/10 (1062)

H-5639

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 4, by inserting after line 12 the following:

"Sec. ____. NEW SECTION. DEATH. "Death" means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician, 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 a physician, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased."

2. By renumbering the remaining sections and internal references to accord with this amendment.

H-5639 FILED MARCH 8, 1976 adopted as amended by 5706 3/10 (1064)
BY VARLEY of Adair
KREAMER of Polk
O'HALLORAN of Black Hawk

H-5640

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 1, by striking lines 9 through 14, and inserting in lieu thereof the following:

"Sec. ___. PUBLIC OFFENSE. A public offense is that which is prohibited by statute and is punishable by fine or imprisonment."

H-5640 FILED - Adopted 3/9 (1028) MARCH 8, 1976
BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5641

Amend Senate File 85, as amended and passed by the Senate and reprinted, page 10, by striking line 29 and inserting in lieu thereof the following: "knows is and at any time during the escape does recognize as a person confined on a charge or conviction of a misdemeanor if such person did not display, use, or discharge a firearm during the escape or use any deadly weapon."

H-5641 FILED MARCH 8, 1976
BY KREAMER of Polk
Out of order with adoption of 5312 3/11 (1106)

H-5642

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 6, line 19, by striking the words ", either natural or deviate,".

H-5642 FILED MARCH 8, 1976
BY BRANSTAD of Winnebago
Withdrawn 3/10 (1072)

H-5643

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 6, by striking lines 34 through 36.

2. Page 7, by striking lines 1 through 10 and inserting in lieu thereof the following:

"Section 301. NEW SECTION. ACCESSORY BEFORE THE FACT. 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, though not present, must be indicted, tried, and punished as principals."

H-5643 FILED MARCH 8, 1976 BY KREAMER of Polk

Ruled out of order with adoption of 5423 5643 3/10 (1073)

H-5644

Amend the amendment, H-5444, to page 27B of Senate File 85 as follows:

1. By striking lines 3 and 4.

2. Line 5, by striking the number "16" and inserting in lieu thereof the words "11".

3. By inserting after line 5 the following:

"3. Page 28A, line 12, by striking the word "presented."."

H-5644 FILED MARCH 8, 1976 BY WEST of Marshall

adopted 3/19 (1298)

H-5645

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 58, line 21, by inserting after the word "mercury" the words "nor caps used in cap pistols".

H-5645 FILED MARCH 8, 1976 BY JUNKER of Woodbury

Adopted 4/20 (2047)

H-5646

Amend Senate File 85, as amended and passed by the Senate and reprinted, page 118A, by striking lines 25 through 31 and inserting in lieu thereof the following:

"b. DEFENDANTS JOINTLY CHARGED--JOINT OR SEPARATE TRIALS--DISCRETION. When two or more defendants are jointly charged with any felony, they must be tried jointly, unless the court orders separate trials. In ordering separate trials, the court in its discretion may order a separate trial as to one or more defendants and a joint trial as to the others, or may order any number of defendants to be tried at one trial and any number of the others at different trials, or may order a separate trial for each defendant; however, if two or more persons can be jointly tried, the fact that separate indictments or informations were filed shall not prevent their joint trial."

H-5646 FILED MARCH 8, 1976 - Lost 3/25 (1424) 30-49

H-5650

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 3, by striking line 23, and inserting the word "vertebrate".

H-5650 FILED MARCH 9, 1976 adopted 3/10 (1061)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5651

Amend Senate File 85, as amended and passed by the Senate and reprinted, page 6, by striking lines 2 through 11.

H-5651 FILED MARCH 9, 1976 - adopted 3/10 (1076)

BY BRANSTAD of Winnebago

H-5652

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 6, line 25, by striking the words "disfigurement, or pro-" and inserting in lieu thereof the word "disfigurement".
2. Page 6, by striking lines 26 through 29.

H-5652 FILED - Lost MARCH 9, 1976 3/10 (1073)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5653

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 6, line 31, by adding after the period the following new section:

"Sec. _____. NEW SECTION. PERSON. All references to person in this act are meant to include both male and female human beings. Any reference to the pronoun he or she or other third person personal pronoun shall apply equally to both male and female persons."

H-5653 FILED - Lost MARCH 9, 1976 3/10 (1073)

BY LIPSKY of Linn

H-5654

Amend Senate File 85, as passed by the Senate and reprinted, as follows:

1. Page 3, by striking lines 15 through 19.

H-5654 FILED - Lost MARCH 9, 1976 3/10 (1061)

BY BRANSTAD of Winnebago

H-5655

Amend Senate File 85 as passed and reprinted by the Senate as follows:

1. Page 3, by striking lines 2 through 8.

H-5655 FILED - Lost MARCH 9, 1976 3/10 (1060)

BY BRANSTAD of Winnebago

H-5657

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 19A, by striking lines 17 and 18 and inserting in lieu thereof the following: "the course of committing sexual abuse the other participant is seriously injured or the other participant is under the age of twelve.

2. Page 19A, by striking line 28 in its entirety.

H-5657 FILED MARCH 9, 1976 BY KOOGLER of Mahaska

adopted 3/16 (1168) Reconsidered and adopted 3/20 (1300) 54-35

H-5658

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 225A, line 30, by adding after the period the following: "The board shall interview a class A felon after five years of confinement and regularly thereafter."

H-5658 FILED MARCH 9, 1976 BY LIPSKY of Linn

Lost 4/13 (1896) 38-47

H-5659

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 22, line 11, by striking the words "and removes".

2. Page 22, line 12, by striking the words "him from the state,".

H-5659 FILED MARCH 9, 1976 BY BRANSTAD of Winnebago

Withdrawn 3/16 (1168)

H-5660

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 157, line 11, by striking the word "thereto" and inserting in lieu thereof the words "to a longer time".

H-5660 FILED MARCH 9, 1976 BY BRANSTAD of Winnebago

adopted as amended by 6058 3/31 (1502)

H-5661

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 152, by striking lines 8 through 19 and inserting in lieu thereof the following:

"(3) Upon consideration of such application, the judge shall enter an order that testimony or other information compelled under the order, any information directly or indirectly derived from such testimony or other information may not be used against the witness in any criminal case, except a prosecution for perjury, contempt of court, or otherwise failing to comply with the order."

H-5661 FILED MARCH 9, 1976 BY BRANSTAD of Winnebago

Lost 3/31 (1498)

H-5662

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 12, by striking line 21 and inserting in lieu thereof the following: "or part, of a criminal act to be committed by one or more of".

2. Page 12, line 22, by inserting after the word "conspirators" the words ", whether or not the purpose of the conspiracy is accomplished".

H-5662 FILED BY BRANSTAD of Winnebago
MARCH 9, 1976 Ruled out of order with adoption of 5745 3/15 (1139)

H-5663

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 11, line 30, by striking the words "and under circumstances which".

2. Page 11, line 31, by striking the words "corroborates that intent by clear and convincing evidence".

3. Page 11, line 33 by inserting after the word "misdemeanor" the words ", whether or not that felony or aggravated misdemeanor is accomplished".

H-5663 FILED BY BRANSTAD of Winnebago
MARCH 9, 1976 Ruled out of order with adoption of 5430 3/11 (1107)

H-5664

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 10, line 15, by inserting after the word "force" the words ", including deadly force".

H-5664 FILED BY BRANSTAD of Winnebago
MARCH 9, 1976 Adopted 43-10 3/10 (1079) Motion to reconsider failed 3/10 (1079) prevailed and amendment Lost 46-48 4/21

H-5665

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 426, after line 29, by inserting the following:

"Sec. ____. This Act shall take effect January 1, 1978."

H-5665 FILED BY NIELSEN of Polk
MARCH 9, 1976 Adopted as amended 4/20 (2038)

H-5666

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 220A, by striking lines 33 through page 220B, line 38.

2. By renumbering the remaining sections and internal references to accord with this amendment.

H-5666 FILED BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair
MARCH 9, 1976
adopted 4/2 (1572)

H-5667

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 220A, line 14, by striking the word "dollars;" and inserting in lieu thereof the word "dollars."

2. Page 220A, by striking lines 15 through 19.

H-5667 FILED MARCH 9, 1976
adopted 4/2 (1572)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5668

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 219, by striking lines 22 and 23, and inserting in lieu thereof the following: "security medical facility. Such commitment order shall be for a period of five years, however, he may be released prior to the expiration of the five year period, upon the recommendation of the chief officer of such institution, under".

2. Page 219, by striking lines 29 and 30, and inserting in lieu thereof the following: "At the expiration of the five year period the director of the division of adult corrections may apply to the".

H-5668 FILED MARCH 9, 1976
Ruled out of order with adoption of 5742

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5669

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 218, line 28, by striking the words "commissioner of social services" and inserting in lieu thereof the words "director of the division of adult corrections".

2. Page 219, line 10, by inserting after the word "counsel," the words "have the right of cross examination".

H-5669 FILED MARCH 9, 1976
Ruled out of order with adoption of 5755 4/2

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5670

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 217A, line 31, by striking everything after the period.

2. Page 217A, by striking all of lines 32, 33 and 34.

H-5670 FILED MARCH 9, 1976
Lost 22-63 4/1 (1535)

BY LIPSKY of Linn

H-5671

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 217A, by striking line 35 through page 218, line 2, and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. DANGEROUS OFFENDER. A dangerous offender is a person convicted of a class B felony who has previously been convicted of a felony involving death or serious injury or has previously been convicted of a felony involving the threat of death or serious injury."

2. Page 218, line 16, by striking the words "twenty-five" and inserting in lieu thereof the word "forty".

3. Page 218, by inserting after line 16 the following:

"_. A class B felon shall be confined for no more than twenty-five years."

4. By renumbering the remaining sections, subsections, and internal references to accord with this amendment.

H-5671 FILED MARCH 9, 1976
Adopted 4/1 (1537)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5672

Amend amendment H-5514, appearing on page 2 of Senate File 85, as follows:

1. Page 3, by striking lines 31 through 33 and inserting in lieu thereof the following:

"or by his or her deputy, in a public place in the county in which the crime was committed or the judgement was rendered at the discretion of the judge passing sentence,".

H-5672 FILED - Lost MARCH 9, 1976
14-82 (1038)

BY GILLOON of Dubuque

H-5673

Amend amendment H-5514, appearing on page 2 of Senate File 85, as follows:

1. Page 3, line 46, by striking the word "twelve" and inserting in lieu thereof the words "two hundred".

H-5673 FILED MARCH 9, 1976
Withdrawn 3/9 (1037)

BY GILLOON of Dubuque

H-5674

Amend amendment H-5514, to page 2 of Senate File 85, as follows:

1. Page 1, by striking line 11 and inserting in lieu thereof the word "son,".

2. Page 1, by striking lines 13 through 23.

3. Page 1, by striking lines 42 through 48.

4. Page 1, line 50, by striking the word "Second" and inserting in lieu thereof the word "First".

5. Page 2, line 1, by striking the word "second" and inserting in lieu thereof the word "first".

6. Page 2, line 2, by striking "or homicide".

7. Page 2, line 3, by striking the words "in the first degree".

8. Page 2, line 4, by striking the word "second" and inserting in lieu thereof the word "first".

H-5674 filed MARCH 9, 1976 — BY MENNENGA of Clinton; Lost 3/9 (1637) MILLER of Buchanan

H-5675

Amend amendment H-5514, to page 2 of Senate File 85, as follows:

1. Page 1, by inserting after line 23 the following new paragraph:

"Any person violating section two hundred four point four hundred one (204.401), subsection one (1), of the Code, involving a substance classified in schedule I or II which is a narcotic drug shall, upon conviction be punished to the same degree as a person convicted of a capital homicide."

H-5675 FILED MARCH 9, 1976 — BY CONNORS of Polk; Lost 13-80 3/9 (1037)

H-5679

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 217A, by inserting after line 34 the following:

"Sec. ___. NEW SECTION. MINIMUM SENTENCE--USE OF FIREARM IN CLASS B OR C FELONY. At the trial of a person charged with participating in a class B or C felony, if the trier of the fact finds beyond a reasonable doubt that the person represented that he or she was in the immediate possession and control of a firearm, displayed a firearm in a threatening manner, or was armed with a firearm while participating in the class B or C felony, the convicted person shall serve a minimum of ten years of the sentence imposed by law, section two hundred seven (207) notwithstanding. A person sentenced pursuant to this section shall not be eligible for parole until he or she has served the minimum sentence of confinement imposed by this section."

H-5679 FILED CH 9, 1976 — BY WYCKOFF of Benton; Lost 35-42 4/1 (1536)

H-5680

Amend Senate File 85, as amended and passed by the Senate, and reprinted as follows:

1. Page 13A, line 19, by striking the word "not".
2. Page 13A, by striking line 20 and inserting in lieu thereof the following: "sentenced for either the conspiracy or the public offense or both the conspiracy and the public offense."

H-5680 FILED MARCH 9, 1976 BY BRANSTAD of Winnebago
Lost 3/11 (p. 1120)

H-5681

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 22, line 15, by striking everything after the word "no".
2. Page 22, line 16, by striking the words "that he has any".

H-5681 FILED MARCH 9, 1976 BY LIPSKY of Linn
Adopted 3/16 35-21 (p. 1175)

H-5682

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 18, by striking lines 35, 36 and 37.
2. Page 19A, by striking line 1 and inserting in lieu thereof the following: "between persons is sexual abuse by either of the participants when the act is performed with".

H-5682 FILED MARCH 9, 1976 BY LIPSKY of Linn
Adopted VARLEY of Adair
Motion to reconsider (1149) 50-42 3/15 (1151) EGENES of Story
WEST of Marshall

H-5683

Amend Senate File 85, as amended and passed by the Senate and reprinted, pabe 22, line 32, by striking the words "or innocence".

H-5683 FILED MARCH 9, 1976 BY BRANSTAD of Winnebago
Lost 3/16 (p. 1175) 25-41

H-5684

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 28B, by inserting after line 38 the following:

"4. The theft of property exceeding fifty dollars in value but not exceeding one hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is punishable by imprisonment for not to exceed sixty days or by a fine of not to exceed two hundred dollars, or both such fine and imprisonment."

2. Page 28B, line 39, by striking the words "one hundred" and by inserting in lieu thereof the word "fifty". A

3. Page 28B, line 40, by striking the word "fourth" and by inserting in lieu thereof the word "fifth".

4. Page 28B, line 41, by striking the word "fourth" and by inserting in lieu thereof the word "fifth".

5. Page 220A, line 14, by striking the word "dollars;" and by inserting in lieu thereof the word "dollars." B

6. Page 220A, by striking lines 15 through 19.

H-5684 FILED MARCH 9, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

Withdrawn 4/20 (2045) Reconsidered 4/22

B- Withdrawn 4/22 (2097)
A- Adopted as amended by 6395 4/22 (2098)

H-5685

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 46, line 34, by striking the word "willingly" and inserting in lieu thereof the word "willfully".

H-5685 FILED MARCH 9, 1976 BY LIPSKY of Linn

Withdrawn 3/17 (1226)

H-5686

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 52, by adding after line 4 the following new subsection: "___. He has never been convicted of assault or other crime defined in Division VIII of this Act."

H-5686 FILED MARCH 9, 1976 BY LIPSKY of Linn

Adopted 3/17 45-32 (1237)

H-5687

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 153, line 26, by adding the following after the word "person", "if the solicitated person is testifying against a defendant charged with solicitation under Section 501."

H-5687 FILED MARCH 9, 1976 BY BRANSTAD of Winnebago

Withdrawn 4/21 (1497)

H-5689

Amend amendment H-5514, to page 2 of Senate File 85, as follows:

1. Page 1, by striking lines 16 through 23.

H-5689 FILED BY JUNKER of Woodbury
MARCH 9, 1976 Lost 3/9 (1040)

H-5690

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 9, by striking lines 4 through 9 and inserting in lieu thereof the following: "or threat. Reasonable force, including deadly force, may be used even if an alternative course of action is available if the alternative entails a risk to one's life or safety, or the life or safety of a third party, or requires one to abandon or retreat from his dwelling or place of business or employment."

H-5690 FILED BY KREAMER of Polk
MARCH 10, 1976 Adopted 3/10 (1077)

H-5691

Amend Senate File 85, as amended and passed by the Senate and reprinted, as follows:

1. Page 11, line 14, by inserting after the word "TRAPS" the words "TO ENTRAP HUMANS".
2. Page 11, line 16, by inserting after the word "injury" the words "to a human".
3. Page 11, line 18, by striking the words "operated by" and inserting in lieu thereof the words "used to entrap".

H-5691 FILED BY BRANSTAD of Winnebago
MARCH 10, 1976 Ruled out of order with adoption of 5426 3/10 (1076)

H-5692

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 12, by striking lines 18 through 27 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. CONSPIRACY. Conspiracy is an agreement or combination between two or more persons to engage in a course of conduct which will consist, in whole or part, of criminal acts to be committed by one or more of the conspirators.

2. Renumber sections and correct internal references in conformance with this amendment.

H-5692 FILED BY KREAMER of Polk
MARCH 10, 1976 5745 substituted 3/15 (1138)
5692 withdrawn "

H-5709

Amend amendment H-5420 to page 5 of Senate File 85 as follows:

1. Page 1, by striking lines 3 through 50 and inserting in lieu thereof the following:

"1. Pages 13A through 13C by striking lines 23 through 73 and inserting in lieu thereof the following:

"Section ____. NEW SECTION. HOMICIDE DEFINED. Homicide is the killing of a person by another.

"Sec. ____. NEW SECTION. MURDER IN THE FIRST DEGREE. A person commits murder in the first degree under any of the following circumstances:

"1. The person with either express or implied malice aforethought deliberately and with premeditation commits homicide.

"2. The person commits homicide while participating in a forcible felony.

"3. The person commits homicide while escaping or attempting to escape from lawful custody.

"Murder in the first degree is a class A felony.

"Sec. ____. NEW SECTION. MURDER IN THE SECOND DEGREE. A person commits murder in the second degree when such person with either express or implied malice aforethought commits homicide which is not murder in the first degree.

"Murder in the second degree is a class B felony.

"Sec. ____. NEW SECTION. VOLUNTARY MANSLAUGHTER. A person commits voluntary manslaughter when such person intentionally commits a homicide solely as the result of sudden, violent, and irresistable passion caused by adequate provocation 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.

"Voluntary manslaughter may be proved as an included offense under an indictment for murder in the first or second degree.

"Voluntary manslaughter is a class C felony.

"Sec. ____. NEW SECTION. INVOLUNTARY MANSLAUGHTER.

"1. A person commits involuntary manslaughter and is guilty of a class D felony when such person unintentionally commits a homicide by the com-

mission of a public offense other than a forcible felony or an escape or attempt to escape from lawful custody.

2. A person commits involuntary manslaughter and is guilty of an aggravated misdemeanor when such person unintentionally commits a homicide by the commission of an act in a manner likely to cause death or serious injury.

Involuntary manslaughter is not an included offense under an indictment for murder in the first or second degree or voluntary manslaughter.

2. Page 2, by striking line 1.

3. Page 2, by striking lines 7 through 9.

H-5709 FILED BY BRANSTAD of Winnebago
MARCH 10, 1976 Withdrawn 3/15 (1971)

H-5710

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 40, by inserting after line 6 the following new section:

"Sec. ____. NEW SECTION. FURNISHING WEAPON TO INMATE. Any person not authorized by law who furnishes or knowingly makes available any instrument or weapon of the kind commonly known as a blackjack, slingshot, billy, sandclub, sandbag or metal knuckles or any explosive substance or any dirk or dagger or any other sharpened instrument or any firearm to any inmate at any detention facility, correctional institution or any institution under the management of the department of social services commits a class D felony."

H-5710 FILED MARCH 10, 1976 BY BRANSTAD of Winnebago

Lost 3/17 (1224)

H-5711

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 57B, by inserting after line 41 the following new sections:

"Sec. ___. NEW SECTION. SODOMY--DEFINITION. Whoever shall have carnal copulation in any opening of the body except sexual parts, with another human being, or shall have carnal copulation with a beast, shall be deemed guilty of sodomy.

Sec. ___. NEW SECTION. PUNISHMENT. Any person who shall commit sodomy, shall be imprisoned in the penitentiary not more than ten years."

H-5711 FILED MARCH 10, 1976 BY HALVORSON of Clayton
HARPER of Davis

Withdrawn 3/20 (1311)

H-5712

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 57B, by inserting after line 41 the following new section:

"Sec. _____. NEW SECTION. ADULTERY. Every person who commits adultery shall be imprisoned in the penitentiary not more than three years, or be fined not exceeding three hundred dollars and imprisoned in the county jail not exceeding one year; and when the crime is committed between parties only one of whom is married, both shall be punished. No prosecution therefore can be commenced except on the complaint of the husband or wife."

H-5712 FILED MARCH 10, 1976 BY HALVORSON of Clayton
HARPER of Davis

Withdrawn 4/20 (2045)

SENATE FILE 85

H-5714

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 5, line 13 by striking the word "building" and inserting in lieu thereof the word "building,". B

2. Page 6, line 22 by striking the word "artifical" and inserting in lieu thereof the word "artificial". a

3. Page 15A, line 26, by striking the word "medine" and inserting in lieu thereof the word "medicine". B

4. Page 20B, line 36, by striking the word "annus" and inserting in lieu thereof the word "anus". a

5. Page 21A, line 13, by striking the word "veneral" and inserting in lieu thereof the word "venereal". B

6. Page 65, line 15, by striking the words and figure "eighty point nine (80.9)" and inserting in lieu thereof the words and figure "ninety-seven A point one (97A.1),".

7. Page 65, lines 17 and 18, by striking the words and figure "section two hundred forty-seven point twenty (247.20) and".

8. Page 65, lines 23 and 24, by striking the words and figure "nineteen B point twelve (19B.12)" and inserting in lieu thereof the words and figure "eighteen point twelve (18.12)".

9. Page 65, lines 28 and 29, by striking the words and figure "eighty B point three (80B.3)" and inserting in lieu thereof the words and figure "one hundred seven point thirteen (107.13)".

10. Page 66A, line 33, by striking the word "theless" and inserting in lieu thereof the words "the less". a

11. Page 73, line 12, by striking the words "FROM ARRESTING OFFICER". B

12. Page 87, line 28, by striking the word "court". a

13. Page 88, line 14, by striking the words and figure "one thousand three (1003)" and inserting in lieu thereof the words "one thousand four (1004)".

14. Page 103, line 33, by striking the word "division" and inserting in lieu thereof the word "section". B

15. Page 104, line 2, by striking the word "court".

16. Page 104, line 4, by striking the words "district court judges".

17. Page 107, line 4, by striking the word "court".

18. Page 164, line 16, by inserting after the word "to" the words and figure "chapter two (2)".

19. Page 166B, by striking lines 54 through 63.

20. Page 183, line 9, by striking the words and figure "seven hundred fifty-three (753) of the Code" and inserting in lieu thereof the words and figures

"two (2), division five (5) of this Act".

21. Page 215, lines 4 and 5, by striking the words and figures "two hundred seven (207) and two hundred nine (209)" and inserting in lieu thereof the words and figures "two hundred eight (208) and two hundred ten (210)".

22. Page 216A, line 27, by striking the words and figure "two hundred ten (210)" and inserting in lieu thereof the words and figure "two hundred eleven (211)".

23. Page 217B, line 48, by striking the words and figure "two hundred seven (207)" and inserting in lieu thereof the words and figure "two hundred eight (208)".

24. Page 230, line 8, by striking the words and figure "two hundred seven (207)" and inserting in lieu thereof the words and figure "two hundred eight (208)".

25. Page 248 by striking lines 27 through page 249 line 6 and inserting in lieu thereof the following:

"Sec. ___. Section forty-eight point five (48.5), subsection three (3), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter eighty-one (81), section forty-nine (49) is amended to read as follows:

3. Neither the duplicate registration records open to public inspection nor any list obtained under subsection two (2) of this section shall be used for any purpose of any kind or nature, other than to request a registrant's vote at a primary or general election, or any other bona fide political purpose. The commissioner shall keep a list of the name, address, telephone number, and social security number of each person who copies or obtains copies of the registration lists. Any person that uses such lists in violation of this section shall, upon conviction, be ~~imprisoned in the county jail, not to exceed one year, or be fined not to exceed one thousand dollars, or by both such fine and imprisonment, for each violation~~ guilty of a serious misdemeanor."

26. Page 269, by striking lines 17 through page 270 line 1.

27. Page 307, by striking lines 21 through 28.

28. Page 326, by striking lines 11 through 22.

29. Page 345, by striking lines 9 through 27, and inserting in lieu thereof the following:

"Sec. ___. Section three hundred twenty-six point twenty-seven (326.27), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seventy-three (173), section nine

(9) is amended to read as follows:

326.27 VIOLATIONS TO NEGATE AGREEMENTS. Operation of a commercial vehicle or vehicles in violation of the requirements of this chapter, the motor vehicle registration laws of this state, or the terms of any agreement negotiated by the department pursuant to this chapter may, after due notice and hearing, be grounds for denial of reciprocal or proportional registration privileges on the vehicle or vehicles of an owner so operated. Any owner denied such reciprocal or proportional registration privileges shall be subject to payment of full anual Iowa registration fees on any such vehicle operated on Iowa highways. In addition to denial of reciprocal or proportional registration privileges, it shall be a simple misdemeanor ~~punishable upon conviction by a fine of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days~~, unless such act is declared under Iowa law to be a felony, for any person to operate under reciprocity or proportional registration in violation of any requirements of this chapter."

30. Page 353, by striking lines 11 and 12 and inserting in lieu thereof the following:

"Sec. ___. Section three hundred sixty-four point five (364.5), unnumbered paragraph one (1), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred three (203), section thirteen (13) is amended to read as follows:"

31. Page 369, by striking line 32 through page 370, line 6.

32. Page 370, by striking lines 29 through 34.

33. Page 371, by striking lines 19 through 28.

34. Page 372, by striking lines 2 through 30.

35. Page 374, by striking lines 14 through 24.

36. Page 375, by striking lines 8 through 21, and inserting in lieu thereof the following:

"Sec. ___. Section four hundred seventy-nine point twenty-nine (479.29), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seventy (170), section twenty-seven (27) is amended to read as follows:

479.29 PENALTY FOR DISCRIMINATION. Any such corporation guilty of extortion, or of making any unjust discrimination as to freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freights, ~~shall, upon conviction thereof, be fined in any sum not less than one thousand dollars nor more than five thousand dollars for the first offense, and for each~~

~~subsequent-offense-not-less-than-five-thousand-nor more-than-ten-thousand-dollars--such-fine-to-be-imposed in-a-criminal-prosecution-by-indictment~~ be guilty of an aggravated misdemeanor; or shall be subject to the liability prescribed in section 479.30, to be recovered as therein provided."

37. Page 376, by striking line 2 through page 377 line 2.

38. Page 379, by striking line 29 through page 380 line 1.

39. Page 413, by striking line 5 through line 14.

40. Page 413, by striking line 15 through line 21, and inserting in lieu thereof the following:

"Sec. 492. Section five hundred ninety-five point nine (595.9), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred forty-four (244), section three (3), is amended to read as follows:

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 ~~and-shall-be-punished-by-a-fine-not exceeding-one-hundred-dollars,-or-by-imprisonment in-the-county-jail-not-exceeding-thirty-days~~."

41. Page 421, by inserting after line 29 the following:

"Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter ninety-nine (99), section twenty-three (23), is amended to read as follows:

SEC. 23. Chapter seven hundred twenty-six (726), Code 1975, is amended by adding the following new section:

NEW SECTION. PENALTY. A person who commits an offense declared in this chapter or chapter ninety-nine B (99B) of the Code to be a misdemeanor shall be ~~subject-to-imprisonment-in-the-county-jail-for a-period-not-exceeding-one-year,-or-to-a-fine-not exceeding-one-thousand-dollars,-or-to-both-fine-and imprisonment~~ guilty of a serious misdemeanor.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter ninety-nine (99), section twenty-four (24) is amended to read as follows:

SEC. 24. Chapter seven hundred twenty-six (726), Code 1975, is amended by adding the following new sections:

NEW SECTION. 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 ninety-nine B (99B) of the Code commits ~~a felony punishable by a fine not to exceed five thousand dollars or by imprisonment for a term not to exceed two years, or by both fine and imprisonment~~ an aggravated misdemeanor.

NEW SECTION. COLLECTION SERVICE PROHIBITED. Any person who knowingly offers, gives or sells his or her services for use in collecting or enforcing any debt arising from gambling, whether or not lawful gambling, commits ~~a felony, punishable by a fine not to exceed five thousand dollars or by imprisonment for a term not to exceed two years, or by both fine and imprisonment~~ an aggravated misdemeanor.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred (100), section one (1), unnumbered paragraph three (3) is amended to read as follows:

Any person violating the provisions of this Act is guilty of a simple misdemeanor ~~and shall, upon conviction, be subject to a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days, or be subject to both such fine and imprisonment~~.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirteen (113), section four (4) is amended to read as follows:

SEC. 4. Chapter one hundred ten B (110B), Code 1975, is amended by adding the following new section:

NEW SECTION. PENALTY. Any person violating any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and, upon conviction, shall be fined not less than ten dollars nor more than one hundred dollars or imprisoned in the county jail for not more than thirty days~~.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-two (132), section six (6), is amended to read as follows:

SEC. 6. NEW SECTION. OFFENSES AND PENALTIES.

1. A person who is convicted of violating section two (2) of this Act ~~may be sentenced to a fine not to exceed one hundred dollars, or to imprisonment in the county jail for a period not to exceed thirty days, or both the fine and imprisonment~~ is guilty of a simple misdemeanor.

2. A person who makes or utters a tranportation certificate with knowledge that some or all of the information contained in the certificate is false,. or a person who alters, forges, or counterfeits a transportation certificate, or the receipt prescribed in section four (4) of this Act, ~~commits a public offense and upon conviction may be sentenced to a term in the state penitentiary not to exceed ten years, to a fine not to exceed five thousand dollars, or to both the fine and imprisonment~~ is guilty of a class C felony.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred forty-four (144), section ten (10), unnumbered paragraph one (1), is amended to read as follows:

A person who establishes, conducts, manages, or operates a center without a license shall be guilty of a serious misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, shall be considered a separate offense.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred fifty (250), section two (2), subsection four (4), is amended to read as follows:

4. A person who violates the provisios of this section is guilty of a serious misdemeanor."

44. Page 424, line 8, by inserting after the figure "(753.8)," the word "and".

45. Page 424, lines 9 through 11, by striking the words and figures "seven hundred eighty-two point nine (782.9), seven hundred eighty-two point ten (782.10), seven hundred eighty-two point eleven (782.11),".

46. Renumbering the remaining sections, subsections, and internal references to accord with this amendment.

H-5714 FILED MARCH 10, 1976

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

A- Withdrawn 4/22 (2107)
B- Adopted as amended by 6893, 5390 4/22 (2108)

H-5715

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 221, by inserting after line 21 the following:

"DIVISION _____
HABITUAL CRIMINALS

Section 1. NEW SECTION. THIRD CONVICTION OF A CLASS B FELONY. Whenever any person has been twice convicted of a crime in this or any other state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least twenty-five years each, he shall, upon conviction of a class B felony committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than fifty years.

Sec. 2. NEW SECTION. THIRD CONVICTION OF A CLASS C FELONY. Whenever any person has been twice convicted of a crime in this or any other state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least ten years each, he shall, upon conviction of a class C felony committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than thirty-five years.

Sec. 3. NEW SECTION. THIRD CONVICTION OF A CLASS D FELONY. Whenever any person has been twice convicted of a crime in this or any other state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least five years each, he shall, upon conviction of a class D felony committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than twenty-five years.

Sec. 4. NEW SECTION. FOURTH CONVICTION OF AN INDICTABLE MISDEMEANOR. Whenever any person has been three times convicted of a crime in this or any other state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least two years each, he shall, upon conviction of an indictable misdemeanor committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than six years.

Sec. 5. NEW SECTION. FOURTH CONVICTION OF A NON-

INDICTABLE MISDEMEANOR. Whenever any person has been three times convicted of a crime in this or any other state, or by the United States, or once in this state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least thirty days each, he shall, upon conviction of an indictable misdemeanor committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than three years.

Sec. 6. NEW SECTION. MANDATORY MINIMUM SENTENCE. A person sentenced pursuant to any of the preceding sections in this division shall not be eligible for parole until he has served one-third of his sentence.

Sec. 7. NEW SECTION. EVIDENCE. On the trial of any of said offenses named in sections one (1), two (2), three (3), four (4) and five (5) of this division, a duly authenticated copy of the record of the former judgment in any court wherein said conviction was had, for any of said crimes against the party indicted, shall be prima facie evidence of such former conviction and may be used in evidence against said party.

Sec. 8. NEW SECTION. PARDON FOR FORMER CRIME. If the person convicted shall show, to the satisfaction of the court before whom such conviction was had, that he was released from imprisonment, upon any of said sentences, upon a pardon granted for the reason that he was innocent, such conviction shall not be considered as such under any of the previous sections in this division.

H-5715 FILED MARCH 10, 1976 BY HALVORSON of Clayton
KREAMER of Polk

Ruled out of order with consideration of 6041 & 1/2 (1572)

H-5716

Amend Senate File 85 as follows:

1. Section 210, page 218 by inserting after the period on line 9 the following words: "A person sentenced as an incorrigible offender shall not be eligible for parole until he or she has served the minimum sentence of confinement of three years and the Court shall have the additional discretion and power of ordering an incorrigible offender to be held in custody for a minimum period up to, but not to exceed, four-tenths of the maximum indeterminate sentence for incorrigible offenders."

H-5716 FILED BY WOODS of Polk
MARCH 10, 1976 Adopted H/2 (1556)
66-21

H-5717

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 55, by striking lines 13 through 16.
2. Page 55, by striking lines 30 through page 56 line 3.
3. By renumbering the remaining sections and internal references to accord with this amendment.

H-5717 FILED BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
MARCH 10, 1976 JESSE of Polk, Chair
Withdrawn 3/20 (1301)

H-5725

Amend Amendment H-5420, to Senate File 85 as amended, passed and reprinted by the Senate, as follows:

1. Page 2, Line 6, by striking the word "is" and inserting in lieu thereof the words "is not".

H-5725 FILED-Lost BY BRANSTAD of Winnebago
MARCH 10, 1976 3/10 (1014)

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 33, by inserting after line 27 the following new sections:

"Sec. ___. NEW SECTION. MAKING TOOLS FOR COUNTERFEITING. If any person engrave, make, or mend, or begin to engrave, make, or mend, any plate, block, press, or other tool, instrument, or implement, or make or provide any paper or other materials, adapted and designed for the forging or making any false and counterfeit note, certificate, state bond, warrant, or other instrument of public security for money or other property of this state or any other of the United States, or any bank bill, promissory note, draft, or other evidence of debt issued or purporting to be issued by any corporation or company, he shall be imprisoned in the penitentiary not more than five years.

Sec. ___. NEW SECTION. POSSESSION OF TOOLS FOR COUNTERFEITING. Every person who has in his possession any such plate or block engraved in any part, or any press or other tool, instrument, or implement, paper or other materials, adapted and designed as aforesaid, with intent to use the same, or to cause or permit the same to be used, in forging or making any such false and forged certificates, notes, bonds, warrants, public securities, or evidences of debt, shall be imprisoned in the penitentiary not more than five years.

Sec. ___. NEW SECTION. COUNTERFEITING COIN. If any person forge or counterfeit any gold or silver coin, current by law or usage within this state, or if any person have in his possession at the same time five or more pieces of false money or coin counterfeited in the similitude of any gold or silver coin current as aforesaid, knowing the same to be false and counterfeit, and with intent to utter or pass the same as true, he shall be imprisoned in the penitentiary not more than ten years.

Sec. ___. NEW SECTION. UTTERING OR POSSESSION OF COUNTERFEIT COIN. Any person who has in his possession any number of pieces less than five of the counterfeit coin mentioned in the third new section added by this amendment, knowing the same to be false or counterfeit, with intent to utter or pass the same as true; and any person who utters, passes, or tenders in payment any false and counterfeit coin, knowing the same to be false and counterfeit, shall be imprisoned in the penitentiary not exceeding eight years, or fined not more than five

hundred dollars and imprisoned in the county jail not exceeding one year.

Sec. ___. NEW SECTION. COUNTERFEITING FOREIGN COIN. If any person forge or counterfeit any gold or silver coin of any foreign government or country, with intent to export the same to injure or defraud any such government or the citizens thereof, he shall be imprisoned in the penitentiary not exceeding ten years.

Sec. ___. NEW SECTION. COUNTERFEITING PUBLIC SEALS. Every person who is convicted of having forged, counterfeited, or falsely altered the great seal of the state; or the sale of any public office authorized by law; or the seal of any court, corporation, city, or county; or who falsely makes, forges, or counterfeits any impression purporting to be the impression of any such seal, with intent to defraud, shall be imprisoned in the penitentiary not exceeding ten years.

Sec. ___. NEW SECTION. COUNTERFEITING BRANDS OR STAMPS. If any person, with intent to defraud, falsely make, forge, or counterfeit any stamp or brand authorized by law to be affixed to any substance or thing whatever; or, knowing such stamp or brand to be counterfeit, use the same as genuine, with intent to defraud, he shall be imprisoned in the penitentiary not exceeding ten years.

Sec. ___. NEW SECTION. POSSESSION OF INSTRUMENTS FOR COUNTERFEITING. If any person cast, stamp, engrave, make, or amend, or have in his possession any mold, die, press, or other instrument or tool adapted and designed for the forging and counterfeiting of any coin before mentioned, with intent to use the same, or permit the same to be used, for that purpose, he shall be imprisoned in the penitentiary not more than five years, or be fined not exceeding one thousand dollars and imprisoned in the county jail not more than one year."

2. Renumber sections and correct internal references in conformance with this amendment.

H-5726 FILED BY BRANSTAD of Winnebago
MARCH 10, 1976 Withdrawn 3/16/76

H-5730

Amend Senate File 85 as passed, amended, and reprinted by the Senate as follows:

1. Page 15B, line 43 by inserting after the word "or" the word "felonious".

2. Page 15B, line 46 by inserting after the word "and" the word "voluntary".

3. Page 15B, line 50 by striking the word "or" and inserting in lieu thereof the word "and".

H-5730 FILED BY KREAMER of Polk
MARCH 11, 1976 - Adopted 3/15 (1142)

H-5731

Amend amendment H-5428 to page 10 of Senate File 85 as follows:

1. Page 1, by striking ", including deadly force".

H-5731 FILED, ADOPTED (p. 1104) BY NIELSEN of Polk
MARCH 11, 1976

H-5732

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 28A, line 3, by striking the words "may infer" and inserting in lieu thereof the words "shall presume".

H-5732 FILED BY BRANSTAD of Winnebago
[redacted]CH 11, 1976 Adopted 3/16 64-24 (1181)

H-5735

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 28A, line 3, by striking the word "infer" and inserting in lieu thereof the word "presume".

H-5735 FILED BY BRANSTAD of Winnebago
MARCH 11, 1976 Withdrawn 3/16 (1181)

H-5736

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 60, by inserting after line 27 the following:

"Sec. ____. NEW SECTION. TRANSACTING BUSINESS WITHOUT A LICENSE. If any person carry on or transact any business or occupation without license for it, when such license is required by any law of the state, he shall be fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days."

H-5736 FILED BY HANSEN of O'Brien
[redacted]CH 11, 1976 Adopted as amended by 6352 4/20 (2048)

H-5739

Amend Senate File 85, as passed and reprinted by the Senate, as follows:

1. Page 22, line 1, by striking after the word "class" the letter "C" and inserting in lieu thereof the letter "B".

H-5739 FILED BY KREAMER of Polk
MARCH 11, 1976 adopted 3/16 (1173) 48-34

H-5740

Amend amendment H-5440 to page 24 of Senate File 85, as follows:

1. Line 5, by striking the words "whose ownership or security interest in the" and inserting in lieu thereof the words "who owns said".
2. Lines 7 and 8, by striking the words "equals ninety percent or more of its value,".
3. Lines 10 and 11, by striking the words "which he has not knowingly contracted for".

H-5740 FILED BY BRANSTAD of Winnebago
MARCH 11, 1976 adopted 3/16 (1176)

H-5741

Amend Senate File 85 as follows:

1. Page 51A, line 20 by striking the word "shall" and inserting in lieu thereof the word "may".
2. Page 51A, lines 20 and 21, by striking the words "established by the commission, and".

H-5741 FILED BY WYCKOFF of Benton
MARCH 11, 1976 adopted 3/17 (1237)

H-5742

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 219, by striking lines 13 through 33.

H-5742 FILED BY BRANSTAD of Winnebago
MARCH 11, 1976 adopted 4/2 (1571)

H-5743

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 216A, by striking lines 13 through 20.
2. Renumber the bill sections accordingly.

H-5743 FILED BY BRANSTAD of Winndbago
MARCH 11, 1976 adopted 4/1 (1524)

H-5744

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 15A, line 28, by inserting after the word "person", the words "or of the fetus".

2. Page 15A, line 29, by inserting after the word "every", the word "reasonable".

3. Page 15B, line 53, by inserting after the word "person" the words "or of the fetus".

H-5744 FILED BY SPEAR of Lee
Div. A ADOPTED (p. 1141)
Div. B ADOPTED
MARCH 15, 1976

H5745

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 12, by striking lines 18 through 27 and inserting in lieu thereof the following:

"Sec. ____. NEW SECTION. CONSPIRACY. Conspiracy is an agreement or combination between two or more persons to engage in a course of conduct which will consist, in whole or in part, of criminal acts to be committed by one or more of the conspirators. A person shall not be convicted of a conspiracy without proof of an overt act by one of more of the conspirators evidencing a design to accomplish the purpose of the conspiracy by criminal means."

H5745 FILED BY JESSE of Polk
MARCH 15, 1976 KREAMER of Polk
adopted 3/15 (1137)

H-5746

Amend Senate File 85 as follows:

1. Page 15A, by striking line 31 and inserting in lieu thereof the following: "the life of a fetus showing significant, sustainable vital signs."

H-5746 FILED - Lost 12-55 BY GILLOON of Dubuque
MARCH 15, 1976 3/15 (1141)

H-5747

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 16, line 16, by inserting after the word "another" the words ", coupled with the apparent ability to execute the act".

2. Page 16, line 19, by inserting after the word "offensive" the words ", coupled with the apparent ability to execute the act".

H-5747 FILED BY KREAMER of Polk
MARCH 15, 1976 - adopted 3/15 (1144)

H-5748

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 17, by striking lines 18 through 25.

2. By renumbering the remaining sections and internal references to accord with this amendment.

18 FILED BY COMMITTEE ON JUDICIARY AND LAW
15, 1976 ENFORCEMENT, SUBCOMMITTEE ON THE
3/15 (1145) CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5749

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 19A, by inserting after line 14 the following new subsection:

"___. NEW SUBSECTION. The sex act is done with a person of the same sex."

H-5749 FILED BY KREAMER of Polk
MARCH 15, 1976 - Lost 3/16 32-60 (p. 1168)

H-5750

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 19A, by striking lines 30 and 31 and inserting in lieu thereof the words "to commit the sex act."

H-5750 FILED BY KREAMER of Polk
MARCH 15, 1976 Withdrawn 3/16 (1168)

H-5751

Amend Senate File 85 as follows:

1. Page 21A, lines 14 and 15, by striking the words "county in which the crime was committed." and inserting the word "state."

H-5751 FILED BY HARVEY of Scott
MARCH 15, 1976 Adopted 3/16 49-32 (p. 1172)

H-5752

Amend Senate File 85 as follows:

1. Page 21A, line 28, by inserting after the word "person" the following: "or to confine such person without authority, or without the consent of such person."

H-5752 FILED BY KREAMER of Polk
MARCH 15, 1976 Adopted 3/16 (1172)

H-5753

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 25, by striking lines 14 through 25.
2. By renumbering the remaining sections and internal references to accord with this amendment.

H-5753 FILED BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair
MARCH 15, 1976
Adopted 3/16 (1179)

H-5754

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 32, line 3, by inserting after the word "execution." the following: "Writing includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification."

H-5754 FILED BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair
MARCH 15, 1976
Adopted 3/16 (1187)

H-5755

Amend, amendment H-5710, to page 40, Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 1, by striking lines 8 through 12, and inserting in lieu thereof the words "dangerous weapon to an".

H-5755 FILED MARCH 15, 1976
adopted 3/11 (1223)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5756

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 48, line 29, by inserting after the word "require" the words "or permit".

H-5756 FILED MARCH 15, 1976
adopted 3/11 (1233)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5757

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 66A, line 15, by striking the words "CRIMINAL HOMICIDE" and inserting in lieu thereof the word "MURDER".

2. Page 66A, line 16, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

H-5757 FILED MARCH 15, 1976
adopted 3/23 (1383)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5758

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 218, by striking lines 27 through 35.

2. Page 219, by striking lines 1 through 12 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. APPLICATION FOR COMMITMENT. For the purposes of Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-nine (139), section six (6), the commissioner of social services shall be considered an interested person and all applicable provisions of Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-nine (139), relating to involuntary hospitalization, shall apply to any persons who have been committed to the custody of the department of social services as a result of a conviction of a public offense."

H-5758 FILED MARCH 15, 1976
adopted as amended by 6/29 4/2 (1571)

BY BRANSTAD of Winnebago

H-5760

Amend Senate File 85 as follows:

1. Page 15B, line 64, by inserting after the word "who" the word "willfully".

H-5760 FILED MARCH 15, 1976
adopted 3/15 (1143)

BY JUNKER of Woodbury

H-5761

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 20A, by striking line 2 and inserting in lieu thereof the following:

"The other person is 12 years of age but less than 16 years of age and the defendant is a member of the same household as the victim, the defendent is related to the victim by blood or affinity to the fourth degree, or the defendant is in a position of authority over the victim and used this authority to coerce the victim to submit."

H-5761 FILED MARCH 15, 1976

BY BRANDT of Black Hawk
O'HALLORAN of Black Hawk

Adopted 3/16 (1169)

H-5762

Amend Senate File 85 as follows:

1. Page 322, by inserting after line 10 the following new section.

SEC. ___. Chapter two hundred ten (210), Code 1975, is amended by adding the following new sections:

NEW SECTION. RECOGNITION AND USE OF SYSTEMS. The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and one or the other or a combination of these systems shall be used for all commercial purposes in this state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published by the National Bureau of Standards, are recognized and shall govern weighing and measuring equipment and transactions in this state.

NEW SECTION. CONTRACTS, DEALINGS, AND COURT PLEADINGS. A contract or dealing shall not be deemed invalid and a pleading in court shall not be open to objection because weights or measures are stated in terms of the metric system. Contracts made within this state containing references to a weight or measure shall be construed according to the system of weights and measures in customary use in the United States or according to the weights and measures of the metric system, as the contract provides.

2. By re-numbering sections and correcting internal references to conform with this amendment.

H-5762 FILED MARCH 15, 1976

BY KRAUSE of Palo Alto

Ruled not germane 4/19 (2009)

H-5763

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 28A, line 32 by striking the words "or theft of a motor vehicle, irrespective of".

2. Page 28A, line 33 by striking the words "value,".

H-5763 FILED MARCH 15, 1976

BY BRANSTAD of Winnebago

Adopted 3/16 (1182)

5770

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 19A by striking lines 3 through 13 and inserting in lieu thereof the following:

"1. When force or coercion is used to accomplish the sex act. Force or coercion includes but is not limited to any of the following circumstances:

a. When the defendant overcomes the victim through the actual application of physical force or physical violence.

b. When the defendant coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the defendant has the present ability to execute these threats.

c. When the defendant coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the defendant has the ability to execute this threat. As used in this subdivision "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

d. When the defendant engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

e. When the defendant through concealment or by element of surprise, is able to overcome the victim.

2. The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless."

2. Page 19A, line 30, by striking the words "force and against the will" and inserting in lieu thereof "force".

3. Page 19A, by striking line 31.

4. Page 19B, by striking line 37 through page 20A, line 1 and inserting in lieu thereof the following:

1. When force or coercion is used to accomplish the sex act. Force or coercion includes but is not limited to any of the following circumstances:

a. When the defendant overcomes the victim through the actual application of physical force or physical violence.

b. When the defendant coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the defendant has the present ability to

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execute these threats.

c. When the defendant coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the defendant has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

d. When the defendant engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

e. When the defendant, through concealment or by the element of surprise, is able to overcome the victim.

2. The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless."

H-5770 FILED BY BRANDT of Black Hawk
MARCH 15, 1976 adopted 3/16 (1166)

H-5764

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 27A, line 34, by inserting after the word "Makes" the words ", utters, draws, delivers, or gives".

2. Page 28A, line 8, by inserting after the word "Makes" the words ", utters, draws, delivers, or gives".

H-5764 FILED BY BRANSTAD of Winnebago
MARCH 15, 1976 adopted 3/16 (1180)

H-5766

Amend Senate File 85 as follows:

1. Page 17, line 28, by striking the word ",harass,".

2. Page 17, by striking line 29 and inserting in lieu thereof the following:

"1. Shoots, throws, launches, or discharges a dangerous weapon".

H-5766 FILED adopt BY JUNKER of Woodbury
MARCH 15, 1976 3/15 (1146) JESSE of Polk

H-5767

Amend Senate File 85 as follows:

1. Page 18, line 12, by inserting after the word "or" the word "simulated".

H-5767 FILED BY JUNKER of Woodbury
MARCH 15, 1976 - adopted 3/15 (1147)

H-5768

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 29, line 9, by striking the word "he".

2. Page 29, line 10, by striking the words "reasonably believes that he has" and inserting in lieu thereof the words "there is a reasonable belief that there is".

H-5768 FILED BY JUNKER of Woodbury
MARCH 15, 1976 Lost 3/16 (1184)

H-5769

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 35, by inserting after line 32, the following:

"3. The term "trespass" shall not mean entering upon the property of another for the sole purpose of retrieving personal 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."

H-5769 FILED BY JUNKER of Woodbury
MARCH 15, 1976 - adopted 3/17 43-40 (1219)

H-5771

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 22, line 12, by inserting after the word "state" the words "or holds such child in another state".

H-5771 FILED MARCH 15, 1976 BY HALVORSON of Clayton

adopted 51-27 3/16 (1174)

SENATE FILE 85

H-5772

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 22, line 14, by inserting after the word "person" the words ", other than a peace officer,".

H-5772 FILED MARCH 15, 1976 BY HALVORSON of Clayton

Lost 3/16 (1174)

H-5777

Amend Senate File 85 as follows:

1. Page 323, by striking lines 27 through 35.

2. Page 324, by striking lines 1 through 4.

3. Page 424, line 13, by inserting after the word "Chapters" the words "two hundred sixteen (216),".

H-5777 FILED MARCH 16, 1976 BY KRAUSE of Palo Alto

Adopted 4/19 (2009)

H-5778

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 25, by striking lines 4 through 8 and inserting in lieu thereof the following:

"Sec. ____. NEW SECTION. EXPLOSIVE OR INCENDIARY MATERIALS OR DEVICES. Any person who shall receive, possess, sell, purchase, or manufacture a bomb, bombshell, grenade, or incendiary or explosive device including but not limited to black powder bombs and molotov cocktails, or, with intent to assemble them, the materials which may be assembled into any such device shall be guilty of a class C felony; provided that this section shall not apply to military and law enforcement agencies and their personnel, or persons, firms, or corporations engaged in business, occupational or recreational use of commercial explosives, fireworks, firearms, or ammunition when possession and use is otherwise authorized or permitted by law. This section shall have no application to the possession or sale of rifle, pistol, or shotgun ammunition; nor shall it prohibit the use, sale, or possession of primers, percussion caps, brass, powder, and other components and supplies for hand loading or reloading rifle, pistol, or shotgun ammunition or loading muzzle-loading arms, where the same is for lawful purposes.

Sec. ____. NEW SECTION. DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Explosive device" means any material, container containing a chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible materials or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects.

2. "Incendiary device" means any inflammable material or container containing an inflammable liquid or material whose ignition, by fire, friction, concussion, detonation, or other method is intended to produce destructive effects primarily through combustion rather than explosion.

3. "Molotov cocktail" means a breakable container containing an explosive or inflammable liquid or other substance, having a wick or similar device

capable of being ignited, and may be described as either an explosive or incendiary device. A "molotov cocktail" is not intended to mean a device commercially manufactured primarily for the purpose of illumination or other such uses."

2. By renumbering sections in conformity with this amendment.

3 FILED BY KREAMER Of Polk
16, 1976 Lost 3/11 42-45 (1179)

H-5788

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 39, line 14, by inserting after the word "escape" the words "or attempted escape".

H-5788 FILED MARCH 16, 1976 BY HANSEN of O'Brien
adopted 3/17 (1222)

SENATE FILE 85

H-5789

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 44, by striking lines 3 through 8 and inserting in lieu thereof the following: "person with respect to his or her services in such capacity commits a class D felony.

Sec. ____. NEW SECTION. ACCEPTING BRIBE. Any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or venireman, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board of arbitration who shall solicit or knowingly receive any promise or anything of value or any benefit given with the intent to influence the act, vote, opinion, judgment, decision or exercise of discretion of such person commits a class C felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state."

2. By renumbering sections.

H-5789 FILED MARCH 16, 1976 BY HALVORSON of Clayton
withdrawn 3/17 (1224)

H-5790

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 29, line 5, by striking the words "acts shall" and inserting in lieu thereof the words "acts may".

2. Page 29, line 5, by striking the words "value shall" and inserting in lieu thereof the words "value may".

H-5790 FILED CH 16, 1976 BY BENNETT of Ida
adopted 3/16 (1153)

H-5791

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 23, line 2, by striking the words "or displays a dangerous weapon,".

2. Page 23, line 3, by striking the word "firearm" and inserting in lieu thereof the words "dangerous weapon".

H-5791 FILED BY JUNKER of Woodbury

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 60, by inserting after line 27 the following new section:

"Sec. ___. NEW SECTION. MEDICAL EXPERIMENTS.

1. The term "medical experiment" means any physical act done to a human patient which is not generally accepted as being for the patient's direct therapeutic benefit or as directly contributing to the diagnosis of the patient's disease, or the withholding of any generally accepted procedure from a human patient, or the making of any test on a human patient for which there is no immediate medical need.

The term "consent" means the authorization by a human patient to have a medical experiment performed on the patient after full disclosure to the patient of all material facts which might influence the patient's decision to undergo or not undergo the experiment, including but not limited to, the exact nature and purpose of the experiment, the probable and possible risks or hazards involved, the nature of the information sought to be gained by the experiment, the possible effects caused by the experiment on lower life forms if known, and the expected recovery time of the patient after the experiment.

2. No person shall be subjected to any medical experiment without his or her express voluntary consent. Any person, prior to conducting any medical experiment, shall state in writing the nature and purpose of the experiment, the known and potential or possible hazards of the experiment, the nature of the information sought to be gained by the experiment and the expected recovery time of the patient. A copy of this statement shall be given to every person whose consent is sought to become a subject of the proposed experiment, and the subject shall sign the statement in giving his or her express voluntary consent.

For the purpose of this Act, express voluntary consent may be given:

a. For persons under eighteen years of age, by the person's parent or guardian.

b. For other persons not having legal capacity to consent, or committed to any mental institution, by that person's guardian, parents or spouse.

Consent may not be given by an institution as guardian if the person is confined or in the custody or care of the institution.

3. Any person who performs, or directs to be performed, any medical experiment on another person

without the express voluntary consent of that person shall be guilty of a class D felony.

Each medical experiment illegally performed upon an individual patient shall be a separate and actionable offense."

H-5792 FILED MARCH 16, 1976
Withdrawn 4/20(2048)

BY KRAUSE of Palo Alto
MONROE of Des Moines
HIGGINS of Scott
LIPSKY of Linn
CONNORS of Polk

793

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 55, by inserting after line 10 the following new section:

"Sec. _____. NEW SECTION. DUTY TO CARRY PERMIT. It shall be the duty of any person armed with a revolver, pistol, or pocket billy concealed upon his person to have in his immediate possession the permit provided for in this division and to produce same for inspection at the request of any peace officer. Failure to so produce such permit shall constitute a simple misdemeanor."

H-5793 FILED MARCH 16, 1976 BY JUNKER of Woodbury
adopted 3/18 (1255)

H-5794

Amend Senate File 85 as follows:

1. Page 288, by striking lines 29 through 35.
2. Page 289, by striking lines 1 and 2.
3. Page 424, line 13, by inserting after the word "Chapters" the words "one hundred twenty-one (121),".

H-5794 FILED MARCH 16, 1976 BY KRAUSE of Palo Alto
adopted 4/19 (2007)

H-5807

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 60, by striking lines 15 through 27.

2. Page 63, by inserting after line 35 the following:

"DIVISION XXIX
WIRETAPPING

Section 2901. NEW SECTION. DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Wire communication" means any communication 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 furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications.

2. "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation.

3. "Intercept" means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical or other device.

4. "Investigative or law enforcement officer" means any officer of the state or political subdivision thereof, who is empowered by the law of this state to conduct investigations of or to make arrests for offenses referred to in section two thousand nine hundred two (2902) of this division, and any attorney charged by law to prosecute such offenses. Whenever the bureau of criminal investigation and bureau of identification is referred to, it shall mean the bureau, or its designee, as long as the bureau remains primarily responsible for the actions of such designee.

5. "Contents" when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

6. "Aggrieved person" means a person who was a party to any intercepted wire or oral communication or a person against whom the interception was directed.

7. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto

Rico, and any territory or possession of the United States.

8. "Bureau of criminal investigation and bureau of identification" shall mean the director of the division of criminal investigation and bureau of identification in the department of public safety or his designee; such designation shall be in writing and name a specific individual.

Sec. 2902 NEW SECTION. ORDER AUTHORIZING INTERCEPTION. The attorney general of this state, or an assistant attorney general designated by him, or the county attorney of any county, who has obtained the prior approval of the attorney general or an assistant attorney general designated by him, is hereby authorized to make application to the district court of the county in which an interception is sought to be made, for an order authorizing the interception of wire or oral communications, and the court may grant in conformity with two thousand nine hundred four (2904) of this division an order authorizing, the interception of wire or oral communications by the bureau of criminal investigation and bureau of identification, when such interception may provide evidence of the commission of the offense of murder, arson, placing or unlawfully detonating explosives with intent to harm any person or property, kidnapping, robbery, bribery, extortion, or dealing in controlled substances.

Sec. 2903. NEW SECTION. DISCLOSURE OF COMMUNICATIONS INTERCEPTED.

1. Any investigative or law enforcement officer of the bureau of criminal investigation and bureau of identification who, by any means authorized by this division or federal law, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. Any investigative or law enforcement officer of the bureau of criminal investigation and bureau of identification, who by any means authorized by this division or federal law, has obtained knowledge of the contents of any wire or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

3. Any investigative or law enforcement officer

of the bureau of criminal investigation and bureau of identification who has received, by any means authorized by this division or federal law, or by a like statute of any other state, any information concerning a wire or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of this division may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding in any court or before any grand jury in this state, or in any court of the United States or of any state, or in any federal or state grand jury proceeding.

4. No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this division or federal law, shall lose its privileged character. Any evidence obtained or derived from the interception of a wire or oral communication that is privileged shall be inadmissible in any court. Any evidence so obtained shall be immediately reported to the court which authorized the interception which shall in turn cause such information to be served upon all parties concerned.

5. When an investigative or law enforcement officer of the bureau of criminal investigation and bureau of investigation, while engaged in intercepting wire or oral communications in the manner authorized, intercepts wire or oral communications relating to offenses other than those specified in the order of authorization, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections one (1) and two (2) of this section. Such contents and any evidence derived therefrom may be used under subsection three (3) of this section when authorized or approved by the district court for the county in which such interception was made, where the court finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this division, or federal law, or by a like statute of another state.

Sec. 2904. NEW SECTION. APPLICATION--COURT ORDERS-APPEAL.

1. Each application for an order authorizing the interception of a wire or oral communication or order approving such interception under section two thousand nine hundred three (2903), subsection five (5), shall be made in writing upon oath or affirmation to the district court of the county in which such

interception is to be made, and shall state the applicant's authority to make such application. Each application shall include the following information:

a. The identity of the investigative or law enforcement officer requesting the application. If the application is executed by an assistant attorney general, a certified copy of the designation of authority, signed by the attorney general, shall accompany the application. If executed by the attorney general, the application shall contain a certification that it is made in conformance with this division.

b. A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his 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 whetner or not other investigative procedures have been attempted and failed or why they reasonably appear to be unlikely to succeed if attempted 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 obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter.

e. A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the court on each such application.

f. Where 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 such

results.

2. The court may require the applicant to furnish additional testimony or documentary evidence under oath or affirmation in support of the application. Oral testimony shall be reduced to writing.

3. Upon such application the court may enter an ex parte order, as requested or as modified, authorizing interception of wire or oral communications or approving interceptions made under section two thousand nine hundred three (2903), subsection five (5), if the court determines on the basis of the facts submitted by the applicant that all of the following are true:

a. There is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section two thousand nine hundred two (2902) of this division.

b. There is probable cause for belief that particular communications concerning that offense will be obtained through such interception.

c. Normal investigative procedures have been attempted and have failed or reasonably appear to be unlikely to succeed if attempted or appear to be too dangerous.

d. There is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

4. Each order authorizing or approving the interception of any wire or oral communication shall specify:

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, and the means by which such interceptions shall be made.

c. A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates.

d. The identity of the agency authorized to intercept the communications, and of the person authorizing the application.

e. The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been

first obtained.

5. No order entered under this section may authorize or approve the interception of any wire or oral communication that has not been intercepted in accordance with the requirements of this division, nor for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection one (1) of this section and the court making the findings required by subsection three (3) of this section. The period of extension shall be no longer than the court deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. Every order and extension thereof 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 division, and shall terminate upon attainment of the authorized objective, or in any event in thirty days.

6. Whenever an order authorizing interception is entered pursuant to this division, the order may require reports to be made to the court who issues the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court may require.

7. The contents of any wire or oral communication intercepted by any means authorized by this division shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subsection shall be stored and maintained in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, the extensions thereof, such recordings shall be made available to the court issuing such order and sealed under his directions. Custody of the recordings shall be wherever the court orders and they shall not be destroyed for a period of ten years except the court shall inspect all intercepted communications and if he finds there is no information therein which will be of aid in law enforcement he shall order the intercepted recording destroyed forthwith. Duplicate recordings may be made for use or disclosure pursuant to the provisions of section two thousand nine hundred three (2903), subsections

one (1) and two (2) of this division for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under section two thousand nine hundred three (2903), subsection three (3) of this division.

Applications made and orders granted under this division shall be sealed by the court. Custody of the applications and orders shall be wherever the court directs. Such applications and orders shall be disclosed only upon a showing of good cause before the district court of the county in which the interception was made and shall not be destroyed for a period of ten years.

Any violation of the provisions of this division may be punished as contempt of court.

8. Within a reasonable time but not later than ninety days after the filing of an application for an order of authorization or approval under this division which is denied or the termination of the period of an order or extensions thereof, the issuing or denying court shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the court may determine in his discretion that is in the interest of the justice, an inventory which shall include notice of all of the following:

a. The fact of the entry of the order or the application.

b. The date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application.

c. The fact that during the period wire or oral communications were or were not intercepted.

The court upon the filing of a motion shall make available to the movant for inspection such portions of the intercepted communications, and applications and orders which pertain to the movant.

9. The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in any court of this state 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 or approved and the intercepted communications which pertain to such

party's conversation. This ten-day period may be waived by the court if he 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 such information.

10. Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this state, or a political subdivision thereof, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that the communication was unlawfully intercepted, the order of authorization or approval under which it was intercepted is insufficient on its face, or the interception was not made in conformity with the order of authorization or approval. Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this division. The court, upon the filing of such motion by the aggrieved person, shall make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the court determines to pertain to the movant.

In addition to any other right to appear, the state shall have the right to appeal:

a. From an order granting a motion to suppress made under unnumbered paragraph one (1) of this subsection if the attorney general or county attorney shall certify to the court or other official granting such motion that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order of suppression was entered and shall be diligently prosecuted as in the case of other interlocutory appeals or under such rules as the supreme court may adopt.

b. From an order denying an application for an order of authorization or approval, and such an appeal shall be ex parte and shall be in camera in preference to all other pending appeals in accordance with rules promulgated by the supreme court.

Sec. 2905. NEW SECTION. EXEMPTION FROM LIABILITY. A good faith reliance on a court order issued under the provisions of this division shall constitute a

complete defense to any civil or criminal action brought for violation of this division.

Sec. 2906. NEW SECTION. REPORT. In January of each year, the attorney general of this state shall report to the administrative office of the United States courts such information as is required to be filed by federal law. A duplicate copy of such reports shall be filed, at the same time, with the chief justice of the supreme court.

Sec. 2907. NEW SECTION. EXEMPTIONS. It shall not be unlawful:

1. For a person acting under color of law to intercept a wire or oral communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception; or

2. For a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal, tortious or other injurious act.

3. For an operator of a switchboard, or an officer, employee, or agent of any communication 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 his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication; however, said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

Sec. 2908. NEW SECTION. UNLAWFUL INTERCEPTIONS. It shall be unlawful for any person to willfully intercept, attempt to intercept, or procure another to intercept any wire or oral communication which is not specifically authorized in accordance with the provisions of this division or to knowingly disclose the contents of any wire or oral communication obtained which is not specifically authorized in accordance with the provisions of this division shall upon conviction be guilty of a class D felony. Interception of the contents of any wire or oral communication pursuant to a court order which is subsequently held invalid shall not be a violation of this division under this section.

Sec. 2909. NEW SECTION. POSSESSION, SALE,

DISTRIBUTIONS, MANUFACTURE, ADVERTISEMENTS.

1. Except as otherwise specifically provided in subsection two (2) of this section, any person, upon conviction, shall be guilty of a class D felony, if the person does any of the following:

a. Willfully possesses an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication.

b. Willfully sells an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication.

c. Willfully distributes an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication.

d. Willfully manufactures or assembles an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication.

e. Willfully places in any newspaper, magazine, handbill, or other publication within this state, any advertisement promoting the sale or use of any interception device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication.

2. It shall not be unlawful under this section for a communication common carrier or an officer, agent, or employee of, or a person under contract with a communication common carrier, in the usual course of the communication common carrier's business; or a person under contract with the government of the United States, a state or a political subdivision thereof, or the District of Columbia, or an officer, agent, or employee of the government of the United States, a state or political subdivision, or municipality thereof to possess, sell, distribute, manufacture, or assemble, or advertise any intercepting device while acting in furtherance of the appropriate activities of the United States, a state or political subdivision thereof, the District of Columbia, or a communication common carrier.

3. Any intercepting device in this state possessed, used, sold, distributed, manufactured or assembled in violation of this section may be seized and forfeited to the state.

Sec. 2910. NEW SECTION. TREBLE DAMAGES. Any party to a conversation which is intercepted or is not specifically authorized in accordance with the

provisions of this division may sue the violator or violators therefor and shall receive three times the damages sustained by him, and the cost of the suit, including a reasonable attorney's fee. No award under this section shall be less than five hundred dollars.

Sec. 2911. NEW SECTION. MINISTERS EXEMPT. It shall be unlawful to knowingly intercept any wire or oral communication between a minister, ordained under the laws of the state of Iowa, and parishioner, unless the minister is the principal suspect of criminal activity.

Sec. 2912. NEW SECTION. PHYSICIANS EXEMPT. It shall be unlawful to intercept any oral communication between a physician and his patient when the subject matter of the communication concerns treatment of the patient for addiction to narcotics or drugs.

Sec. 2913. NEW SECTION. LAWYERS EXEMPT. It shall be unlawful to willfully intercept any wire or oral communication between a lawyer and his client, unless the lawyer is a suspect of criminal activity."

H-5807 FILED MARCH 16, 1976 BY KREAMER of Polk

Withdrawn 4/20 (2047)

H-5810

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 36, by inserting after line 29 the following:

"Sec. _____. NEW SECTION. INJURIES TO DOGS OR CATS. It shall be unlawful for any peace officer or any person designated by a city or county as an animal control officer to kill or intentionally injure any dog or cat running loose within the city limits of a city, except a dog or cat which the officer has reason to believe is affected with hydrophobia or is an immediate threat to the safety of a person or of some other animal, unless the officer has made a reasonable effort to determine whether or not the dog or cat is licensed. The officer or other person shall not be found to have made a reasonable effort unless the dog or cat has been provided food and shelter for a period of not less than three days during which the dog or cat is made available for recovery by its owner. Costs for shelter may be taxed to the owner as a condition of recovery of the animal. Nothing in this section shall prohibit the use of any tranquilizing device designed to immobilize an animal to facilitate its capture if the device is designed and used in a manner to prevent serious injury. Violation of this section is a simple misdemeanor."

2. Page 422, line 29, by inserting after the numerals "(343.6)," the words and numerals "three hundred fifty-one point twenty-five (351.25), three hundred fifty-one point twenty-six (351.26), three hundred fifty-one point twenty-seven (351.27),".

3. By renumbering sections as necessary.

H-5810 FILED BY HENNESSEY of Delaware
MARCH 16, 1976 adopted 3/17 (1220)

H-5811

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 39, line 16, by striking the words "a class D felony." and inserting in lieu thereof the following: "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 felony other than a class A felony, the defendant commits a class D felony.

3. If the prisoner is in custody by reason of a conviction or charge of any public offense other than a felony, the defendant commits an aggravated misdemeanor."

H-5811 FILED BY HANSEN of O'Brien
MARCH 16, 1976 adopted 3/17 (1222)

H-5808

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 33, line 27, by inserting after the word "felony." the words "The attempted use of such an instrument in the above manner is an aggravated misdemeanor."

H-5808 FILED - Last BY KREAMER of Polk
MARCH 16, 1976 3/16 (1187)

SENATE FILE 85

H-5809

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 35, by inserting after line 3, the following:

"Sec. ___. NEW SECTION. ATTEMPTED CRIMINAL MISCHIEF. It shall be a crime to attempt to commit criminal mischief as defined in section one thousand six hundred one (1601) of this division. If the criminal mischief attempted is punishable as a felony, whoever attempts to commit such criminal mischief shall be sentenced to a term of imprisonment not to exceed one half of the term provided for the crime attempted, and in addition such person may be sentenced to a fine of not more than one half of the fine provided for the criminal mischief attempted. If the criminal mischief attempted is punishable as a misdemeanor, whoever attempts to commit such criminal mischief shall be sentenced to a term of imprisonment not to exceed one half of the limits provided for the crime attempted, or a fine not to exceed one half of the fine provided for the crime attempted, or both such imprisonment and fine."

2. By renumbering sections.

H-5809 FILED - Last BY BENNETT of Ida
MARCH 16, 1976 3/17 33-47

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 332, by inserting after line 11 the following:

"Sec. ___. Chapter three hundred five A (305A), Code 1975, is amended by adding sections _____ through _____ of this Act.

Sec. ____. NEW SECTION. It is the purpose of this chapter to preserve and protect archaeological resources. The state recognizes that although private persons may finance research or collect artifacts, no one owns exclusive rights to an archaeological object or archaeological data. The state encourages persons with private archaeological collections to confine their collecting activities to the surface of the ground, to report archaeological finds to the state archaeologist, to keep separate objects from different localities, to maintain records on the sources of the collections, to make collections available for study, and to preserve the collections as a unit.

Sec. ___. NEW SECTION. All historical objects found on or in land or waters belonging to the state of Iowa or its political subdivisions are declared to be the property of the state and under the jurisdiction of the state archaeologist. A person shall not salvage, remove or deface historical objects belonging to the state without a permit from the state archaeologist.

Sec. ___. NEW SECTION.

1. A person other than those authorized by subsection two (2) of this section shall not commence archaeological investigations and excavations on a site in this state without the prior approval of the state archaeologist. Copies of any contract for the archaeological work shall be filed with the state archaeologist. The state archaeologist may require the applicant to provide a statement of professional qualifications and professional references.

2. The departments of archaeology of the university of Iowa, and Iowa state university of science and technology, and state agencies which employ an archaeological research staff and have facilities for laboratory analysis, storage, and publication of reports or departments of other colleges and universities which have been designated by the state archaeologist are authorized to conduct archaeological investigations and excavations upon giving notice of the particular project to the state archaeologist.

3. The state archaeologist shall provide examples

of site record forms to be used and, if historical objects are to be placed in the state repository, instructions on the use of the state cataloging system. All site and accession numbers shall be assigned by the state archaeologist. At the conclusion of the investigation, a final report containing complete site information and historical object catalog sheets shall be filed with the state archaeologist and the director of the division of historic preservation of the state historical department.

Sec. ___. NEW SECTION. Historical objects recovered by archaeological investigations may be submitted to and accepted by the state archaeologist for preservation. The office of the state archaeologist shall be the official repository for historical objects and records.

Sec. ___. NEW SECTION. Any person discovering historical objects shall report the discovery promptly to the state archaeologist and shall take all reasonable precautions to preserve the discovery until it can be investigated by the state archaeologist or a designee. A person shall not without lawful authority disturb an aboriginal cemetery or possess human remains which exceed one hundred and fifty years in age.

Sec. ___. NEW SECTION. Any person violating the provisions of sections _____ through _____ of this Act shall be guilty of a simple misdemeanor.

Sec. ___. Section three hundred five A point four (305A.4), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

As used in ~~sections 305A.5 and 305A.6~~ this chapter:

2. The chief clerk is authorized to insert section numbers and complete cross references as necessary.

3. By renumbering section numbers of the bill.

H-5813 FILED MARCH 16, 1976 BY KRAUSE of Palo Alto

Ruled not germane 4/19 (2012)

H-5812

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 39, line 25, by striking the words "a class D felony." and inserting in lieu thereof the following: "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 a reason of a conviction of any felony other than a class A felony, the defendant commits a class D felony.

3. If the prisoner was confined by reason of a conviction of any public offense other than a felony, the defendant commits an aggravated misdemeanor."

H-5812 FILED BY HANSEN of O'Brien
MARCH 16, 1976 adopted 3/17 48-15 (1223)

H-5818

Amend amendment H-5778 to page 25 of Senate File 85 as follows:

1. Line 3, by striking "4 through 8" and inserting in lieu thereof "9 through 13".

H-5818 FILED, ADOPTED BY KREAMER of Polk
BY UNANIMOUS CONSENT (1178)
MARCH 16, 1976

H-5821

Amend Senate File 85 as follows:

1. Page 27A, line 18, by inserting after the word "deception." the words "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 absconding without payment or offer to pay gives rise to an inference that the goods or services were obtained by deception."

2. Page 31A, by striking lines 28 through page 31B line 46.

3. By renumbering the remaining sections and internal references to accord with this amendment.

A withdrawn 3/16 (1187)

B - Lost 38-44 3/16 (1186)

H-5821 FILED BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
MARCH 16, 1976 JESSE of Polk, Chair
Motion to reconsider 3/16 lost 45-48 4/21 (2078)

H-5822

Amend Senate File 85 as follows:

1. Page 38, line 1, by striking the comma after the word "misdemeanor" and inserting in lieu thereof a period.

2. Page 38, by striking lines 2 through 4 and inserting in lieu thereof the following: "If a person commits an interference with official acts, as defined in this section, and in so doing he purposely inflicts or attempts to inflict serious injury, or displays a dangerous weapon, or is armed with a firearm, he commits an aggravated misdemeanor."

H-5822 FILED BY BRANSTAD of Winnebago
MARCH 17, 1976 adopted 3/17 (1221)

H-5823

Amend Senate File 85 as follows:

1. Page 48, by striking lines 5 through 7 and inserting in lieu thereof the following:

"1. A machine gun. The term machine gun means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manual reloading by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person."

2. Page 48, line 11, by inserting after the word "rifle" the following: ", cannon, pistol, revolver".

3. Page 48, line 16, by inserting after the word "display" the words "or lawful shooting".

4. Page 48, line 26, by inserting after the word "weapon" the following: "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".

H-5823 FILED BY WYCKOFF of Benton
MARCH 17, 1976 A- Lost 22-49, B- adopted 40-38, C- adopted 3/17 (1232)

H-5824

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 49, by striking lines 19 through 21. A

2. Page 49, by striking lines 28 through page 50, line 7. B

3. By renumbering the remaining subsections to accord with this amendment.

H-5824 FILED BY KREAMER of Polk
MARCH 17, 1976 Lost 3/17 22-63 (1235)

H-5828

Amend Senate File 85, as amended, passed and repreinted by the Senate, as follows:

1. Page 44, by striking lines 3 through 8 and inserting in lieu thereof the following: "person with respect to his or her services in such capacity commits a class D felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state."

2, Page 44, by inserting the following new section:

"Sec.____. NEW SECTION. ACCEPTING BRIBE. Any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or venireman, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board of arbitration who shall solicit or knowingly receive any promise or anything of value or any benefit given with the intent to influence the act, vote, opinion, judgment, decision or exercise of discretion of such person commits a class C felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state."

3. By renumbering sections.

H-5828 FILED BY HALVORSON of Clayton
MARCH 17, 1976 adopted 3/17 (1225)

H-5829

Amend Senate File 85 as follows:

1. Page 48, line 29, by inserting after the word "require" the words "or permit". A

2. Page 49, by inserting after line 6 the following new paragraph: B

"7. Any collector who acquires, holds, or disposes of firearms or ammunition as curios or relics."

H-5829 FILED BY WYCKOFF of Benton
MARCH 17, 1976 A-withdrawn, B-Lost 28-38 3/17 (1233)

H-5830

Amend Senate File 85 as amended, passed and reprinted as follows:

1. Page 46, lines 15 and 16 by striking the following: ", tumultuous or threatening".

2. Page 46, lines 24 and 25 by striking the following: ", tumultuous or threatening".

3. Page 47, lines 3 and 4 by striking the following: ", tumultuous or threatening".

H-5830 FILED BY HARGRAVE of Johnson
MARCH 17, 1976 adopted 3/17 42-29 (1227)

H-5834

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 61, line 1, by striking the words "with respect to what is suitable material".

2. Page 61, line 2, by striking the words "for minors".

3. Page 61, by striking line 20.

4. Page 61, by striking lines 27 through 35 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. UNLAWFUL TRANSACTIONS IN OBSCENITY. Any person who distributes, exhibits, manufactures, produces, reproduces, imports, or possesses with the intent to distribute or exhibit, or advertises for distribution any obscene matter, is guilty of a serious misdemeanor."

5. Page 62, by striking lines 1 through 5.

6. Page 62, line 10, by striking the words "to minors".

7. Page 62, line 20, by striking the words "in which the minor is".

8. Page 62, line 21, by striking the word "participating" and the word "the".

9. Page 62, line 22, by striking the words "of minors".

10. Page 62, lines 25 through 27 by striking the words and figures "section two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter" and inserting in lieu thereof the words "this division".

11. Page 62, line 32, by striking the word "section".

12. Page 62, by striking lines 33 and 34 and inserting in lieu thereof the words "this division".

13. Page 63, line 1, by striking the words and figure "section two thousand eight hundred two (2802)".

14. Page 63, by striking line 2 and inserting in lieu thereof the words "this division".

15. Page 63, by striking lines 14 through 35.

16. By renumbering sections and subsections and internal references to conform with this amendment.

H-5834 FILED MARCH 17, 1976 BY TAUKE of Dubuque

Adopted as amended by 6345, 84-6 (p. 2064)

H-5835

Amend Senate File 85 as follows:

1. Page 66A, by inserting after line 12 the following new section:

"_____. "Unnecessary delay" is any unexcused delay longer than twenty-four yours."

H-5835 FILED MARCH 17, 1976 Q BY BRANSTAD of Winnebago

Lost 3/23 21-55 (1382)

H-5837

Amend the Doyle amendment, H-5512, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 1, line 48, by inserting after the word "safety" the words "and the state conservation director, acting jointly,".

2. Page 3, by striking line 2 and inserting in lieu thereof the following:

"4. The commissioner of public safety and the state conservation director, acting jointly, shall design".

3. Page 3, line 5, by striking the words "the commissioner of public safety deems" and inserting in lieu thereof the words "they deem".

4. Page 3, line 10, by inserting after the word "safety" the words "and out of the budget of the conservation commission, each budget being liable for half of those costs".

5. Page 4, line 16, by striking the word "section" and inserting in lieu thereof the words and numerals "sections one hundred eleven point thirty-eight (111.38) or".

6. Page 6, line 1, by inserting after the word "sections" the words and numerals "one hundred eleven point thirty-six (111.36),".

7. Page 10, line 12, by striking the words "one hundred six point twenty (106.20),".

8. Page 10, line 15, by striking the word "five" and inserting in lieu thereof the word "ten".

9. Page 11, line 9, by striking the word "five" and inserting in lieu thereof the word "ten".

10. Page 11, by inserting after line 44, the following new subsection:

"6. VIOLATIONS RELATING TO THE USE AND MISUSE OF PARKS AND PRESERVES.

a. For violations under sections one hundred eleven point thirty-nine (111.39), one hundred eleven point forty-four (111.44), one hundred eleven point forty-five (111.45), one hundred eleven point forty-eight (111.48) and one hundred eleven point fifty (111.50) of the Code, the scheduled fine is ten dollars.

b. For violations under sections one hundred eleven point forty (111.40), one hundred eleven point forty-three (111.43), one hundred eleven point forty-six (111.46) and one hundred eleven point forty-nine (111.49) of the Code, the scheduled fine is fifteen dollars.

11. Page 11, line 45, by striking the numeral "6" and inserting in lieu thereof the numeral "7".

12. Page 14, by inserting after line 31 the following:

"Sec. ____. Notwithstanding any effective date which may be specified elsewhere in this Act, sections seven hundred fifty-three point nine (753.9), seven hundred fifty-three point thirteen (753.13), seven hundred fifty-three point fourteen (753.14), seven hundred fifty-three point fifteen (753.15), seven hundred fifty-three point sixteen (753.16), seven hundred fifty-three point seventeen (753.17), seven hundred fifty-three point eighteen (753.18), seven hundred fifty-three point nineteen (753.19) and seven hundred fifty-three point twenty (753.20) of the Code as amended by this Act shall take effect on July 1, 1976."

H-5837 FILED MARCH 17, 1976 BY DOYLE of Woodbury

adopted 58-47 4/19 (2022)

H-5838

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 418, by inserting after line 10 the following:

"Sec ___. Section six hundred twenty-two point sixty-two (622.62), Code 1975, is amended to read as follows:

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 three hundred eighty point eight (380.8) of the Code 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 ~~the~~ an ordinance of any ~~municipal corporation,~~ city which has not been compiled in a city code or a supplement pursuant to section three hundred eighty point eight (380.8) of the Code but which has been published by ~~its~~ authority of the city, or transcripts of any ordinance, act, or proceeding thereof recorded in any book, or entries on any minutes or journals kept under ~~its~~ direction of the city, and certified by ~~its~~ 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.

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 the effective date of this section shall be conclusively presumed to be lawful, and to the extent required by this section this section is retroactive. Notwithstanding any other effective date established by this Act, this section shall take effect on July 1, 1976. The Code editor shall not cause this paragraph to be printed in the Code."

H-5838 FILED MARCH 17, 1976 BY DOYLE of Woodbury

Withdrawn 4/19 (2020)

H-5842

Amend Senate File 85 as follows:

1. Page 55, by inserting after line 5 the following new section:

"Sec._____. A person who sells a revolver or pistol, whether such person is a dealer or otherwise, shall require any prospective purchaser to make application for the purchase of the revolver or pistol on forms provided by the department of public safety. The application shall include the name, address, social security number and any other information deemed necessary by the commissioner of public safety.

The seller may not transfer possession of such revolver or pistol before the expiration of five (5) days after the application for purchase.

Within seventy-two (72) hours after application for purchase of a revolver or pistol, the seller shall forward a copy of such application to the department of public safety."

H-5842 FILED MARCH 17, 1976 BY JOCHUM of Dubuque, HIGGINS of Scott

adopted 50-47 3/18 (1255)

H-5844

Amend amendment H-5717 to page 55 of Senate File 85 as follows:

1. Page 1, by striking lines 3 through 7 and inserting in lieu thereof the following:

"1. Page 55, by inserting after line 16 the following new section:

Sec.___. NEW SECTION. SEXUAL CONTACT FOR HIRE. As used in this section, "sexual contact" means any touching of the breast of a female or genitals of a male or female between persons not married to each other for the purpose of arousing or gratifying the sexual desires of either party. Any person who hires, or organizes one or more persons to perform acts, or who performs or engages in acts involving sexual contact in return for a fee is guilty of a serious misdemeanor."

H-5844 FILED MARCH 17, 1976 BY DIELEMAN of Marion, JUNKER of Woodbury

Ruled out of order upon withdrawal of 5560 and 5717 3/20 (1301)

H-5845

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 55, by inserting after line 16 the following:

"Sec. ___. NEW SECTION. PATRONIZING--PENALTY. A person who knowingly pays or offers or agrees to pay an unlicensed prostitute a fee for the purpose of engaging in an act of sexual intercourse or other sexual contact with another person commits an aggravated misdemeanor."

H-5845 FILED MARCH 17, 1976 BY NEALSON of Muscatine

Withdrawn 3/20 (1308)

H-5846

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 57A, by inserting after line 6 the following new section:

"Sec. ___. NEW SECTION. HUSBAND OR WIFE MAY BE WITNESS. In all prosecutions under section two thousand six hundred three (2603) of this Act, the husband or wife shall be a competent witness for the state and may testify to any relevant acts or communications between them, anything in previous statutes to the contrary notwithstanding, provided, however, that no husband or wife shall be called or compelled to testify against the other under section two thousand six hundred three (2603) of this Act except upon consent of such witness."

H-5846 FILED BY BRANSTAD of Winnebago
MARCH 17, 1976 *adopted 4/20 (2044)*

H-5847

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 66A, by inserting after line 12 the following new paragraphs:

"___. "Complaint" means a statement in writing, under oath or affirmation, made before a magistrate, of the commission of a public offense, and accusing someone thereof. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure.

___. "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."

2. Page 66A, line 24 by inserting after the word "aggravated" the words "or serious".

3. Page 66A, line 27 by striking the words "or serious".

H-5847 FILED BY KREAMER of Polk
MARCH 17, 1976 *Withdrawn 3/25 (1407)*

H-5848

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 73, line 12 by striking the words "FROM ARRESTING OFFICER". *A*

2. Page 73, line 19 by striking the second word "of". *B*

3. Page 73, line 20 by striking the words "his authority to make it".

H-5848 FILED BY KREAMER of Polk
MARCH 17, 1976 *A. Withdrawn*
B. Adopted 3/23 (1389)

H-5849

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 217A, line 30, by inserting after the word "years" the words ", if convicted of a class D felony or, if convicted of a class B or C felony, ten years".

H-5849 FILED BY NEALSON of Muscatine
MARCH 17, 1976 *Withdrawn 4/1 (1534)*

H-5855

Amend amendment H-3580, to page 51A of Senate File 85 as follows:

1. Page 1, line 14, by striking the word "representative" and inserting in lieu thereof the word "respective".

2. Page 1, line 15, by striking the word "contact" and inserting in lieu thereof the word "contract".

H-5855 FILED BY WYCKOFF of Benton
ADOPTED, MARCH 17, 1976 adopted 3/17 (1236)

H-5856

Amend Senate File 85 as follows:

1. Page 55, line 21, by striking the word "an".

2. Page 55, by striking line 22 and inserting in lieu thereof the words "a class "D" felony."

H-5856 FILED BY HINES of Story
MARCH 17, 1976 adopted 3/20 (1308)

H-5857

Amend Senate File 85 as follows:

1. Page 118A, line 29 by inserting after the word "prejudice" the following: "that will prevent a fair trial".

H-5857 FILED BY BRANSTAD of Winnebago
MARCH 18, 1976 Lost 3/25 25-57 (1425)

H-5858

Amend Senate File 85 as follows:

1. Page 139, line 4, by inserting before the period the following: "and there is no objection from either prosecuting attorney or presiding judge".

H-5858 FILED BY BRANSTAD of Winnebago
MARCH 18, 1976 Lost 3/30 44-48 (1484)

H-5859

Amend Senate File 85 as follows:

1. Page 153, by striking lines 24 through 30.

H-5859 FILED BY BRANSTAD of Winnebago
MARCH 18, 1976 Lost 3/31 (1499)

H-5860

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 28A, by inserting after line 7 the following:

"Notwithstanding the provisions of this subsection, any bank, person or corporation on which is drawn a check, draft or written order shall be responsible to the payee for payment of the face amount of such instrument upon the payee's demand, even though the maker has insufficient funds on deposit with the drawee to cover the instrument, if:

a. The drawee failed to both initiate return of the instrument to the payee and make reasonable efforts to inform the payee that payment thereon is being refused not later than midnight of the next business day after the instrument is received by the drawee; or

b. The payee presents evidence that the maker has previously issued one or more checks, drafts or written orders on the same bank, person or corporation which the drawee refused to pay because the maker had insufficient funds on deposit with the drawee to cover the instrument.

The foregoing paragraphs shall not relieve the maker of any check, draft or written order from any penalty to which the maker is subject under this subsection, nor from liability to the drawee for any instrument which the drawee is required to pay hereunder."

2. Page 426, by inserting after line 29 the following new section:

"Sec. ___. The superintendent of banking shall recommend to the first session of the Sixty-seventh General Assembly, not later than January 31, 1977, such amendments to chapters five hundred twenty-four (524), five hundred thirty-three (533), five hundred thirty-four (534) and five hundred fifty-four (554) of the Code, and other statutes of this state governing the operation of financial institutions, as appear necessary to conform to section one thousand four hundred one (1401), subsection six (6) of this Act."

H-5860 FILED BY MILLER of Buchanan
MARCH 18, 1976 Lost 10-84 (1259)

H-5863

Amend Senate File 85 as follows:

1. Page 55, by inserting after line 10 the following:

"Sec. 2419. NEW SECTION. FELONY DEFINED. As used in section two thousand four hundred twenty (2420) of this division the word "felony" means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year.

Sec. 2420. NEW SECTION. RECEIPT, TRANSPORTATION, AND POSSESSION OF FIREARMS AND DESTRUCTIVE DEVICES BY FELONS. Any person who is convicted of a felony in any state or federal court and who subsequently possesses, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a public offense and shall upon conviction be imprisoned in the penitentiary for not to exceed two years or be fined not to exceed ten thousand dollars or be subject to both such fine and imprisonment.

Sec. 2421. NEW SECTION. EXCEPTION. The provisions of section two thousand four hundred twenty (2420) shall not apply to a person who is pardoned by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices."

H-5863 FILED MARCH 18, 1976
BY NEWHARD of Jones
NEALSON of Muscatine
KREAMER of Polk
adopted 3/18 (1256)

H-5864

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 72, line 27, by striking the words "provided that he is justified in the".

2. Page 72, by striking lines 28 and 29.

3. Page 72, line 30, by striking the word "or" and inserting in lieu thereof the words "and may be justified in the use of deadly force only".

H-5864 FILED MARCH 18, 1976
BY KREAMER of Polk
withdrawn 3/23 p. 1389

H-5865

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 57B, by inserting after line 41 the following new section:

"Sec. _____. NEW SECTION. SODOMY Whoever shall have carnal copulation in any opening of the body except sexual parts, with another human being, or shall have carnal copulation with a beast, shall be guilty of sodomy. Sodomy is a class "D" felony."

H-5865 FILED MARCH 18, 1976
Lost 39-54 4/20
BY HALVORSON of Clayton
HARPER of Davis
KREAMER of Polk
SCHROEDER of Pottawattamie

H-5866

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 243, by inserting after line 25 the following:

"DIVISION X

COMPENSATION TO VICTIMS

Sec. 1001. NEW SECTION. As used in this division, unless the context otherwise requires:

1. "Board" means the crime victims compensation board.

2. "Claimant" means the person filing a claim pursuant to this division.

3. "Crime" means an act committed in this state which would, if committed by a mentally competent criminally responsible adult, who has no legal exemption or defense, constitute a crime as defined in and prescribed by the penal law, provided, however, that no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purposes of this division unless the injuries were intentionally inflicted through the use of a vehicle.

4. "Family", when used with reference to a person, means any person related to such person within the third degree of consanguinity or affinity, any person maintaining a sexual relationship with such person, or any person residing in the same household with such person.

5. "Victim" means a person who suffers personal physical injury as a direct result of a crime.

Sec. 1002. NEW SECTION.

1. There is hereby created a board, to be known as the crime victims compensation board. Such board shall consist of three members, no more than two of whom shall belong to the same political party, who shall be appointed by the governor by and with the advice and consent of the senate. The members of the board shall have been admitted to practice law in this state for not less than ten years next preceding their appointment.

2. The term of office of each such member shall be seven years, except that the members first appointed shall serve for terms of seven years, five years and three years, respectively. Any member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

3. The governor shall designate one member of the board as chairman thereof, to serve as such at the pleasure of the governor.

4. The members of the board shall devote their whole time and capacity to their duties, and shall not engage in any other occupation, profession or employment, and shall receive an annual salary to be fixed by the governor within the amount made available therefor by appropriation.

Sec. 1003. NEW SECTION. The board shall have the following powers and duties:

1. To establish and maintain a principal office and such other offices within the state as it may deem necessary.

2. To appoint a secretary, counsel, clerks and such other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

3. To adopt, promulgate, amend and rescind suitable rules to carry out the provisions and purposes of this division, including rules for the approval of attorneys' fees for representation before the board.

4. To request from the department of public safety, from county or municipal police departments and agencies and from any other state or municipal department or agency, or public authority, and the same are hereby authorized to provide, such assistance and data as will enable the board to carry out its functions and duties.

5. To hear and determine all claims for awards filed with the board pursuant to this division, and to reinvestigate or reopen cases as the board deems necessary.

6. To direct medical examination of victims.

7. To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue subpoenas requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. The powers provided in this subsection may be delegated by the board to any member or employee thereof.

8. To take or cause to be taken affidavits or depositions within or without the state.

9. To render each year to the governor and to the general assembly a written report of its activities.

Sec. 1004. NEW SECTION.

1. Except as provided in subsection two (2) of this section, the following persons shall be eligible for awards pursuant to this division:

a. A victim of a crime;

b. A surviving spouse, parent or child of a victim of a crime who died as a direct result of such crime; and

c. Any other person dependent for his principal support upon a victim of a crime who died as a direct result of such crime.

2. A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person or a member of the family of such persons shall not be eligible to receive an award with respect to such claim.

Sec. 1005. NEW SECTION.

1. A claim may be filed by a person eligible to receive an award, as provided in section one thousand four (1004) of this division, or, if such person is a minor, by his parent or guardian.

2. A claim must be filed by the claimant not later than ninety days after the occurrence of the crime upon which such claim is based, or not later than ninety days after the death of the victim, provided, however, that upon good cause shown, the board may extend the time for filing for a period not exceeding one year after such occurrence.

3. Claims shall be filed in the office of the secretary of the board in person or by mail. The secretary of the board shall accept for filing all claims submitted by persons eligible under subsection one (1) of this section and alleging the jurisdictional requirements set forth in this Act and meeting the requirements as to form in the rules of the board.

4. Upon filing of a claim pursuant to this division, the board shall promptly notify the county attorney of the county wherein the crime is alleged to have occurred. If, within ten days after such notification, such county attorney advises the board that a criminal prosecution is pending upon the same alleged crime and requests that action by the board be deferred, the board shall defer all proceedings under this division until such time as such criminal prosecution has been concluded and shall so notify such county attorney and the claimant. When such criminal prosecution has been concluded, such county attorney shall promptly so notify the board. Nothing in this section shall limit the authority of the board to grant emergency awards pursuant to this division.

Sec. 1006. NEW SECTION. No award shall be made on a claim unless the claimant has incurred a minimum out-of-pocket loss of one hundred dollars or has lost at least two continuous weeks earnings or support. Out-of-pocket loss shall mean unreimbursed and

unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based.

Sec. 1007. NEW SECTION.

1. A claim, when accepted for filing, shall be assigned by the chairman to himself or to another member of the board. All claims arising from the death of an individual as a direct result of a crime, shall be considered together by a single board member.

2. The board member to whom such claim is assigned shall examine the papers filed in support of such claim. The board member shall thereupon cause an investigation to be conducted into the validity of such claim. Such investigation shall include, but not be limited to, an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which such claim is based.

3. Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.

4. The board member to whom a claim is assigned may decide such claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of such claim. If the board member is unable to decide such claim upon the basis of such papers and such report, he shall order a hearing. At such hearing any relevant evidence, not legally privileged, shall be admissible.

5. After examining the papers filed in support of such claim and the report of investigation, and after a hearing, if any, the board member to whom such claim was assigned shall make a decision either granting an award or deny the claim.

6. The board member making a decision shall file with the secretary a written report setting forth such decision and his reasons therefor. The secretary shall thereupon notify the claimant and furnish him a copy of such report.

Sec. 1008. NEW SECTION.

1. The claimant may, within thirty days after receipt of the report of the decision of the board member to whom his claim was assigned, make an application in writing to the board for consideration

of such decision by the full board.

2. Any member of the board may, within thirty days after the filing of such report, make an application in writing to the board for consideration of such decision by the full board.

3. Upon receipt of an application the board shall review the record and affirm or modify the decision of the board member to whom the claim was assigned. The action of the board in affirming or modifying such decision shall be final. The board shall file with the secretary of the board a written report setting forth its decision, and if such decision varies in any respect from the report of the board member to whom the claim was assigned setting forth its reasons for such decision. If the board receives no application pursuant to subsection one (1) or two (2) of this section the decision of the board member to whom the claim was assigned shall become the final decision of the board.

4. The secretary of the board shall promptly notify the claimant, the attorney general and the comptroller of the final decision of the board and furnish each with a copy of the report setting forth such decision.

Sec. 1009. NEW SECTION.

1. Within thirty days after receipt of the copy of the report containing the final decision of the board, the attorney general may, if in his judgment the award is improper or excessive, commence a proceeding in the Polk county district court, to review the decision of the board. Within thirty days after receipt of the copy of such report, the comptroller may, if in his judgment the award is improper or excessive, request the attorney general to commence a proceeding to review the decision of the board in which event the attorney general shall commence such a proceeding. Such proceeding shall be heard in a summary manner and shall have precedence over all other civil cases in such court. There shall be no other judicial review of any decision made or action taken by the board, by a member of the board or by the secretary of the board with respect to any claim.

2. Any such proceeding shall be commenced by the service of notice thereof upon the claimant and the board in person or by mail.

Sec. 1010. NEW SECTION. Notwithstanding the provisions of section one thousand seven (1007) of this division, if it appears to the board member to whom a claim is assigned, prior to taking action upon

which an award probably will be made, and undue hardship will result to the claimant if immediate payment is not made, such board member may make an emergency award to the claimant pending a final decision in the case, provided, however, that the amount of such emergency award shall not exceed five hundred dollars, the amount of such emergency award shall be deducted from any final award made to the claimant, and the excess of the amount of such emergency award over the amount of the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant to the board.

Sec. 1011. NEW SECTION.

1. No award shall be made unless the board or board member, as the case may be, finds that a crime was committed, such crime directly resulted in personal physical injury to, or death of, the victim, and police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.

2. Any award made pursuant to this Act shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury.

3. Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this division, be in an amount equal to the actual loss sustained, provided, however, that no such award shall exceed one hundred dollars for each week of lost earnings or support, and provided further that the aggregate award for such loss shall not exceed fifteen thousand dollars. If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned by the board among the claimants.

4. Any award made pursuant to this division shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury from or on behalf of the person who committed the crime, under insurance programs mandated by law, from public funds, under any contract of insurance

wherein the claimant is the insured or beneficiary, as an emergency award pursuant to section one thousand ten (1010) of this division.

5. In determining the amount of an award, the board or board member, as the case may be, shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board or board member shall reduce the amount of the award or reject the claim altogether.

in accordance with such determination; provided, however, that the board or board member, as the case may be, may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony.

6. If the board or board member, as the case may be, finds that the claimant will not suffer serious financial hardship, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance pursuant to this division to meet such loss of earnings, support or out-of-pocket expenses, the board or board members shall deny an award. In determining such serious financial hardship, the board or board member shall consider all of the financial resources of the claimant. The board shall establish specific standards by rule for determining such serious financial hardship.

Sec. 1012. NEW SECTION. The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to this division shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

Sec. 1013. NEW SECTION. Acceptance of an award made pursuant to this division shall subrogate the state, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made.

Sec. 1014. NEW SECTION. The comptroller shall pay to the claimant from funds appropriated by the general assembly for such purposes any initial

Page 8

emergency award granted by the board or a board member within five days after receipt of notice from the board of the emergency award.

The comptroller shall pay to the claimant from funds appropriated by the general assembly for such purposes the award as determined in the final decision by the board, reduced to the extent provided in section one thousand eleven (1011) of this division. Such payment shall be made thirty days after communication of the final decision of the board to the comptroller if action to review the board's decision has not been commenced. Payment of the final award as reviewed by the court shall be made in a lump sum within the time period ordered by the court."

2. Renumber the sections and correct internal references as necessary in conformance with this amendment.

H-5866 FILED MARCH 18, 1976 BY LIPSKY of Linn GILLOON of Dubuque

Withdrawn 4/19 (1999)

H-5867

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 70, line 5, by striking the words "in contempt".

2. Page 70, by striking lines 6 through 10 and inserting in lieu thereof the words "guilty of a simple misdemeanor and the magistrate may issue a warrant of arrest for the offense originally charged."

H-5867 FILED MARCH 18, 1976
Adopted 3/23 (1353)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5868

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 71, by striking lines 25 through 30. A

2. Page 94, by striking lines 23 through page 95, line 6. B

H-5868FILED MARCH 18, 1976
Adopted 3/23 (p. 1385)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5869

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 71, by striking lines 31 through page 72, line 2, and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. ARRESTS BY PRIVATE PERSONS. A private person may make an arrest for a public offense committed or attempted in his or her presence."

H-5869 FILED MARCH 18, 1976
Withdrawn 3/23 (1386)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5870

Amend Senate File 85 as passed and reprinted by the Senate as follows:

1. Page 56, by inserting after line 3 the following new section:

"Sec. 2504A. NEW SECTION. PUBLIC INDECENT EXPOSURE. A holder of a liquor license or beer permit or any owner, manager, or person who exercises direct control over any licensed premises defined in section one hundred twenty-three point three (123.3), subsection thirty-one (31) of the Code shall be guilty of an aggravated misdemeanor under any of the following circumstances:

1. If such person allow or permit the actual or simulated performance of any sex act upon or in such licensed premises.

2. If such person allow or permit the exposure of the genitals or buttocks or female breast nipple of any person who acts as a waiter, waitress, or entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

3. If such person allow or permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals, buttocks, pubic hair or anus.

4. If such person allow or permit the displaying of films or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

Provided that the provisions of this section shall not apply to a theater, concert hall, or similiar establishment which is primarily devoted to theatrical performances and any of the circumstances contained in this section were permitted or allowed as part of such performances." A

2. Page 289, by inserting after line 12 the following: B

"Sec. ___. Section one hundred twenty-three point thirty-nine (123.39), Code 1975, is amended by adding the following new subsection:

" 7. Violation of section 2504A of this Code." "

H-5870 FILED MARCH 18, 1976

BY SCHROEDER of Pottawattamie, JUNKER of Woodbury, BRANSTAD of Winnebago, HALVORSON of Clayton, HARPER of Davis, DANKER of Pottawattamie, PAVICH of Pottawattamie, KREAMER of Polk, MENNENGA of Clinton, McELROY of Fremont, MIDDLESWART of Warren, SPENCER of Clay, HENNESSEY of Delaware, STROMER of Hancock, DIELEMAN of Marion, [illegible] of Sioux, KOOGLER of Mahaska, LINDEEN of Henry, HULLINGER of Decatur, WALTER of Pottawattamie, SPRADLING of Sioux, TAUKE of Dubuque, WYCKOFF of Benton, NEALSON of Muscatine, BROCKETT of Marshall, EVANS of Grundy, CRABB of Crawford, LAGESCHULTE of Bremer, WEST of Marshall, BINNEBOESE of Plymouth, DAGGETT of Adams, HINKHOUSE of Cedar, PELLETT of Cass, HANSEN of O'Brien, TOFTE of Winneshiek, [illegible]YRLAND of Clayton, WULFF of Black Hawk, HOWELL of Floyd, LONERGAN of Boone, BORTELL of Madison

A- Adopted 46-39 3/20 (1310)

B- Ruled not germane 3/20 (1310)

Motion to reconsider A filed 3/19 (1312) Prevailed 4/21 (2079) Adopted 52-42 4/22 (2086)

H-5871

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 53, lines 2 and 3, by striking the words "seventy-two hours" and inserting in lieu thereof the words "five days".

H-5871 FILED BY BENNETT of Ida
MARCH 18, 1976 Adopted 3/18 (1259)

H-5873

Amend Senate File 85 as follows:

1. Page 20A, by striking lines 5 through 7 and inserting in lieu thereof the following:

"A person commits sexual abuse in the fourth degree when the person commits sexual abuse with a child."

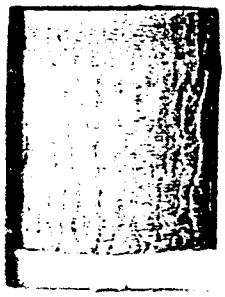
H-5873 FILED BY KREAMER of Polk
MARCH 18, 1976 Adopted 3/20 (1299)

H-5874

Amend amendment H-5873 to page 20A of Senate File 85 as follows:

1. Line 6, by striking the words "a child" and inserting in lieu thereof the words "another person under the age of fifteen".

-5874 FILED BY SPEAR of Lee
ARCH 18, 1976 Lost 3/20 (1299)



H-5875

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 55, by striking lines 11 and 12 and inserting in lieu thereof the following:

"DIVISION XXV

VICE--PROMOTING PROSTITUTION--UNLICENSED MASSAGE

Sec. __. NEW SECTION. DEFINITIONS. For purposes of this division, unless the context otherwise requires:

1. "Massage" means the manipulation of body tissues either by the hands, with a mechanical or vibratory apparatus, by passive or resistive exercise or with use of heat lamps, salt glow, hot and cold packs or tub, shower or cabinet baths for hygienic, reducing or contouring purposes.

2. "Massage establishment" means a place of business where massage is practiced by licensed massage technicians.

3. "Massage technician" means an individual who practices massage and publicly professes to perform the functions incident to the practice of massage.

4. "Department" means the state department of health.

5. "Board" means the board of massage examiners.

Sec. __. NEW SECTION. EXEMPTIONS. The following classes of persons shall not be construed to be massage technicians:

1. Licensed physicians and surgeons, osteopaths, osteopathic physicians and surgeons, podiatrists, chiropractors, nurses, dentists, physical therapists, cosmetologists, and barbers who are engaged in the practice of their respective professions.

2. Students of massage who practice under the supervision of a licensed massage technician in connection with a regular course of instruction at an accredited school as determined by the board pursuant to chapter one hundred forty-seven (147) of the Code.

3. Nonprofessional workers in hospitals, clinics, offices, sanatoriums, or health care facilities as defined in section one hundred thirty-five C point one (135C.1), of the Code who perform their services under the supervision of a physician or a licensed physical therapist and who do not hold themselves out or accept employment as massage technicians.

4. An athletic coach or trainer who in the course of his employment practices massage in an accredited public or private secondary school, junior college, college or university or for a professional or semiprofessional athletic team or organization.

Sec. __. NEW SECTION. QUALIFICATIONS. Each applicant for a license to practice massage shall:

1. Have attained the age of eighteen years.

2. Hold a diploma from an accredited school as determined under sections one hundred forty-seven point thirty-two (147.32) and one hundred forty-seven point thirty-three (147.33) of the Code, which school requires a resident course of study in the theory, method, and practice of massage of not less than one thousand hours.

Sec. __. NEW SECTION. TEMPORARY LICENSE. A person who has continuously practiced massage in this state for five years prior to and who is practicing massage in this state on the effective date of this Act and who has not fulfilled the requirement for a diploma may apply for and be granted a license under this Act, but the license obtained under this section shall expire on July 1, 1978.

Sec. __. NEW SECTION. STANDARDS FOR MASSAGE ESTABLISHMENTS. A person shall not operate, own, conduct or permit to be operated, owned, or conducted a massage establishment in this state unless the massage establishment complies with the following minimum standards:

1. The licenses of the massage technicians employed in the establishment are displayed in a conspicuous place.

2. A sign is posted at the main entrance identifying the establishment as a massage establishment.

3. The premises have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in the practice of massage. Such materials and instruments shall be disinfected after each use.

4. Hot and cold running water are provided at all times.

5. Closed cabinets are provided and used for the storage of all equipment, supplies and clean linens. All used disposable materials and soiled linens and towels shall be kept in covered containers or cabinets which shall be kept separate from clean storage areas.

6. Adequate dressing and toilet facilities and clean and sanitary towels and linens for patrons are provided.

7. The premises are equipped with a service sink for custodial services which shall be located in a room separate from massage service rooms.

The department may promulgate additional sanitary rules for the operation of a massage establishment.

A person who fails to comply with the rules and standards of this section shall be notified in writing of such failure and if the rules and standards are not complied with in not more than sixty days after receiving written notice, the department shall order the massage establishment closed. The department shall enforce the provisions of this section and make all necessary inspections.

Sec. __. Terms of the initial members of the board shall be staggered so that one public member and one licensed member shall be appointed for terms of one year, one public member and one licensed member for terms of two years, and one licensed member for a term of three years.

Sec. __. NEW SECTION. PENALTY. A person who engages in the practice of a massage technician or who owns, operates or maintains a massage establishment, as defined in this division, without having a license therefor commits a simple misdemeanor."

2. Page 296, by inserting after line 29 the following:

"Sec. __. Section one hundred forty-seven point one (147.1), subsection two (2) and three (3), Code 1975, are amended to read as follows:

2. "Licensed" or "certified" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, pharmacist, physical therapist, massage technician, practitioner of cosmetology, practitioner of barbering, funeral director or embalmer shall mean a person licensed under this title.

3. "Profession" shall mean medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, pharmacy, physical therapy, massage, cosmetology, barbering, funeral directing or embalming.

Sec. __. Section one hundred forty-seven point two (147.2), Code 1975, is amended to read as follows:

147.2 LICENSE REQUIRED. No person shall engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, massage, nursing, dentistry, dental hygiene, optometry, pharmacy, cosmetology, barbering, funeral directing or embalming as defined in the following chapters of this title, unless he shall have obtained from

the state department of health a license for that purpose.

Sec. __. Section one hundred forty-seven point three (147.3), Code 1975, is amended to read as follows:

147.3 QUALIFICATIONS. An applicant for a license to practice a profession under this title shall not be ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. Any board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of medicine, podiatry, osteopathy, osteopathy and surgery, chiropractic, nursing, psychology, optometry, pharmacy, physical therapy, massage, cosmetology, barbering or funeral directing or embalming for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

Sec. __. Section one hundred forty-seven point thirteen (147.13), Code 1975, is amended to read as follows:

147.13 DESIGNATION OF BOARDS. The examining boards provided in section 147.12 shall be designated as follows: For medicine and surgery, and osteopathy, and osteopathic medicine and surgery, medical examiners; for psychology, psychology examiners; for podiatry, podiatry examiners; for chiropractic, chiropractic examiners; for physical therapists, physical therapy examiners; for massage technicians, massage examiners; for nursing, board of nursing; for dentistry and dental hygiene, dental examiners; for optometry, optometry examiners; for cosmetology, cosmetology examiners; for barbering, barber examiners; for pharmacy, pharmacy examiners; for funeral directing and embalming, funeral director and embalmer examiners.

Sec. __. Section one hundred forty-seven point fourteen (147.14), subsection one (1), Code 1975, is amended to read as follows:

1. For podiatry, physical therapy, massage, cosmetology, barbering, and funeral directing and embalming, three members each, licensed to practice the profession for which the board conducts examinations, and two members who are not licensed to practice the profession for which the board conducts examinations and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

Sec. __. Section one hundred forty-seven point

H-5875

eighty (147.80), Code 1975, is amended by adding the following new subsection:

NEW SUBSECTION. License to practice massage issued upon the basis of an examination given by the board of massage examiners, license to practice massage issued under a reciprocal agreement, renewal of a license to practice massage.

Sec. ___. Section one hundred forty-eight A point three (148A.3), Code 1975, is amended by striking subsection five (5) and inserting in lieu thereof the following:

5. Licensed massage technicians who are engaged in the practice of massage."

3. The Chief Clerk is authorized to renumber sections of the bill and to insert proper cross-references in the bill in conformity with the provisions of this amendment.

H-5875 FILED, ADOPTED (1305) 3/20 BY GENTLEMAN of Polk
MARCH 19, 1976

H-5924

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 98, by striking lines 32 through page 102, line 3.

2. Page 102, by striking lines 15 through 25 and inserting in lieu thereof the following:

"Sec. ____. NEW SECTION. HEARING. The following procedures shall apply to detention hearings held pursuant to this subdivision:

1. The prosecuting attorney may initiate a detention hearing by ex parte written motion. Upon such motion, the district court may issue a warrant for the arrest of the person, if the person is not in custody.

2. The detention hearing shall be held immediately upon the person being brought before the district court for such hearing unless the person or the prosecuting attorney moves for a continuance. A continuance granted on motion of the person shall not exceed three calendar days. A continuance on motion of the prosecuting attorney shall be granted only upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

3. The person shall be entitled to representation by counsel, including appointed counsel for indigent persons, and shall be entitled to the right of cross-examination and to present information, to testify, and to present witnesses in his own behalf.

4. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the formal rules of evidence.

5. Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, subject only to the following exceptions: Such testimony shall be admissible in proceedings under sections one thousand one hundred two (1102), subsection seven (7) and one thousand one hundred nine (1109) of this chapter, and in perjury proceedings.

6. Unless the defendant otherwise requests in writing, the district court shall conduct the hearing as a private hearing, and any order entered shall remain confidential as to the public generally until the conclusion of the trial.

7. Appeals from orders of detention may be taken in the manner provided under section one thousand one hundred two (1102), subsection six (6) of this chapter.

8. If the trial court issues an order of detention.

it shall be accompanied by a written finding of fact and the reasons for the detention order.

9. For the purposes of such proceedings, the trial court is not divested of jurisdiction by the filing of a notice of appeal."

3. By renumbering the remaining subdivisions, sections and internal references to accord with this amendment.

H-5924 FILED MARCH 23, 1976

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5876

Amend amendment H-5874 to page 20A of Senate File 85 as follows:

1. Line 4, by striking the word "another" and inserting in lieu thereof the word "a".

H-5876 FILED, ADOPTED (12 98) BY SPEAR of Lee
UNANIMOUS CONSENT
MARCH 19, 1976

H-5877

Amend Senate File 85 as follows:

1. Page 20A by striking "D" from line 8 and inserting in lieu thereof "C".

H-5877 FILED BY BRANSTAD of Winnebago
MARCH 19, 1976 PERKINS of Greene
adopted 3/19 (1301) KOOGLER of Mahaska

H-5878

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 64, line 26 by striking the word "authorized".
2. Page 64, line 32 by striking the word "authorized".

H-5878 FILED BY JUNKER of Woodbury
MARCH 19, 1976 Lost 3/23 (1381) 29-46

H-5879

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 71, line 2, by striking the words "of a defendant".
2. Page 71, line 3, by inserting after the word "cases," the word "an" and by striking the word "of".
3. Page 71, line 4, by striking the word "defendants".

H-5879 FILED BY COMMITTEE ON JUDICIARY AND LAW
MARCH 19, 1976 ENFORCEMENT, SUBCOMMITTEE ON THE
adopted 3/23 (1384) CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5880

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 72, by striking line 8 and inserting in lieu thereof the word "arrest."
2. Page 72, by striking lines 9 through 22.

H-5880 FILED BY COMMITTEE ON JUDICIARY AND LAW
MARCH 19, 1976 ENFORCEMENT, SUBCOMMITTEE ON THE
adopted 3/23 (1387) CRIMINAL CODE REVISION
60-27 JESSE of Polk, Chair

H-5881

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 72, by striking lines 27 through 30 and inserting in lieu thereof the words "to make the arrest or which he reasonably believes to be necessary".

H-5881 FILED BY COMMITTEE ON JUDICIARY AND LAW
MARCH 19, 1976 ENFORCEMENT, SUBCOMMITTEE ON THE
adopted 3/23 (1387) CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5882

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 77, by striking lines 22 through 26.

H-5882 FILED MARCH 19, 1976 BY JUNKER of Woodbury

Withdrawn 3/24 (1391)

H-5883

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 80, line 20, by striking the word "twelve" and inserting in lieu thereof the word "twenty".
2. Page 81, line 25, by striking the word "twelve" and inserting in lieu thereof the word "twenty".

H-5883 FILED MARCH 19, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

adopted 3/23 (1392)

H-5884

Amend the Subcommittee amendment, H-5467, to page 86, of Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 1, by inserting after line 2 the following:

"1. Page 83, by striking lines 11 and 12.
2. Page 83, by striking line 24.
3. Page 84, line 20, by striking the words "In the case of".
4. Page 84, by striking lines 21 through 23."

2. By renumbering the amendment accordingly.

H-5884 FILED MARCH 19, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

adopted 3/25 (1411)

H-5885

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

A 1. Page 87, line 21, by inserting after the word "includes" the words ", but is not limited to,".

B 2. Page 87, by striking lines 26 through 35.
3. By striking pages 88 through 89.
4. Page 90, by striking lines 1 through 18.

H-5885 FILED MARCH 19, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

adopted 3/25 (1412)

H-5886

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 122, line 5, by striking the words "not the result of coercion or threats," and inserting in lieu thereof the word "voluntary".

H-5886 FILED MARCH 19, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

adopted 3/25 (1425)

H-5887

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 125, line 15, by inserting after the word "witnesses" the words "who the prosecution expects to use at trial,".

H-5887 FILED MARCH 19, 1976 withdrawn 3/25 (1425)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5888

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 126, line 11, by striking the words "Such period shall be subject".

2. Page 126, by striking lines 12 and 13 and inserting in lieu thereof the following: "The new information or indictment must be filed within thirty days of the dismissal of the original indictment or information and the defendant must be brought to trial within the time limits specified in Rule 27, rules of criminal procedure."

H-5888 FILED MARCH 19, 1976 adopted 3/25 (1426)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5889

Amend Senate File 85 as follows:

1. Page 143, line 33, by inserting after the word "may" the word "not".

H-5889 FILED MARCH 19, 1976

BY BRANSTAD of Winnebago
withdrawn 3/30 (1485)

H-5890

Amend amendment H-5714, to page 5 of Senate File 85, as follows:

1. Page 4, by inserting after line 8 the following:

"_____. Page 377, by striking lines 26 through 35."

H-5890 FILED MARCH 19, 1976

BY KRAUSE of Palo Alto
adopted 4/22 (2108)

H-5891

Amend amendment H-5512 to page 421 of Senate File 85 as follows:

1. Page 3, by striking lines 30 and 31 and inserting in lieu thereof the words "~~nonmoving scheduled violations applicable to commercial carriers~~ which otherwise may be mailed or delivered to a violations office pursuant to section seven hundred fifty-three point sixteen (753.16) of the Code. The collection".

H-5891 FILED MARCH 19, 1976

BY DOYLE of Woodbury
adopted 4/19 (2022)

H-5892

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 424, line 13, by inserting after the word "Chapters" the words and figure "two hundred twenty-five A (225A),".

H-5892 FILED BY DOYLE of Woodbury
MARCH 19, 1976 adopted 4/20 (2035)

H-5893

Amend amendment H-5714, to page 5, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 3, line 44, by striking the words "of extortion, or" and inserting in lieu thereof "of extortion, or".

H-5893 FILED BY KRAUSE of Palo Alto
MARCH 19, 1976 adopted 4/22 (2108)

H-5897

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 89, by striking lines 30 through 32.

H-5897 FILED BY KREAMER of Polk
MARCH 19, 1976 BENNETT of Ida
Ruled out of order with adoption of 5885B 3/25 (1412)

H-5904

Amend Senate File 85 as amended, passed, and reprinted by the Senate, as follows:

1. Page 85, line 13, by striking the word "either" and inserting in lieu thereof the word "any".

2. Page 85, by striking lines 15 through 17 and inserting in lieu thereof the following:

"1. To remove any weapons that a person might seek to use in order to resist arrest or effect his escape.

2. To protect himself from attack.

3. To prevent the concealment or destruction of evidence."

H-5904 FILED BY KREAMER of Polk
MARCH 19, 1976 Withdrawn 3/25 (1410)

H-5917

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 74, line 8, by striking the words "is in uniform and".

2. Page 74, by inserting after line 20 the following new paragraph:

"c. That evidence would be destroyed."

H-5917 FILED BY KREAMER of Polk
MARCH 23, 1976 WOODS of Polk
Ruled out of order with adoption of 5956 3/23 (1390) HANSEN of O'Brien
HALVORSON of Clayton
WYCKOFF of Benton

H-5918

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

A 1. Page 83, line 5, by striking the words "or other authorized person".

B 2. Page 83, by striking lines 11 and 12.

H-5918 FILED BY KREAMER of Polk
MARCH 23, 1976 A - adopted, B - Withdrawn 3/23 (1392)

H-5919

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 84, line 20, by striking the words "in the case of".

A 2. Page 84, by striking lines 21 through 23.

B 3. Page 84, line 27, by striking the word "shall" and inserting in lieu thereof the word "may".

4. Page 84, line 29, by striking the words "Where the".

5. Page 84, by striking lines 30 through 33.

H-5919 FILED BY KREAMER Of Polk
MARCH 23, 1976 Withdrawn 3/23 (1392)

H-5920

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 85, line 2, by inserting after the word "been" the word "immediately".

H-5920 FILED BY KREAMER of Polk
MARCH 23, 1976 Adopted 3/23 (1393)

H-5921

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 86, line 8, by striking the words "Anyone who, in executing".

2. Page 86, by striking lines 9 through 11.

H-5921 FILED BY KREAMER of Polk
MARCH 23, 1976 Lost 3/23 (1393)

H-5922

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 90, line 18, by inserting after the word "person" the words ", or unless the results of the nontestimonial identification are evidentiary as to an offense committed by another person".

H-5922 FILED BY BRANSTAD of Winnebago
MARCH 23, 1976 Ruled out of order with adoption of 6885B 3/25 (1412)

H-5923

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 95, line 13, by inserting after the word "undertaking," the words "exclusive of property exempt from execution,".

H-5923 FILED BY BRANSTAD of Winnebago
MARCH 23, 1976 Lost 3/25 (1412)

,925

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 98, by striking lines 33 through 35.
2. Page 99, by striking lines 1 through 35.
3. Page 100, by striking lines 1 through 35.
4. Page 101, by striking lines 1 through 35.
5. Page 102, by striking lines 1 through 3.
6. By renumbering subdivision numbers.

H-5925 FILED BY KREAMER of Polk
MARCH 23, 1976 Ruled out of order with adoption of 5924 3/25 (1414)

H-5926

Amend Senate File 85 as follows:

1. Page 13C by inserting after line 73 the following new section:

Sec. New Section. No person who injures the aggressor through application of reasonable force in defense of his or her person or property may be held civilly liable for such injury.

No person who injures the aggressor through application of reasonable force in defense of a second person may be held civilly liable for such injury.

H-5926 FILED BY JUNKER of Woodbury
MARCH 23, 1976 Adopted 4/20 (2043)

H-5927

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 369, by striking lines 26 through 29 and inserting in lieu thereof the words "who shall willfully obstruct ~~it or its members~~ the department or board in the performance of their duties, or who shall refuse to give any information within ~~his~~ the person's possession that may be required by ~~it within the line of its duty~~ the department or board for the performance of their duties, shall be ~~fined not to exceed~~".

2. Page 370, by striking lines 9 through 18 and inserting in lieu thereof the following:

"477.15 VIOLATIONS. Any railroad corporation~~, company, or person~~ operating ~~a railroad in this state and using a locomotive engine, or running a train of cars,~~ or using in this state any train, engine, freight, car way, caboose, or other car contrary to the provisions of sections 477.12 to ~~477.14~~ four hundred seventy-seven point thirteen (477.13) of the Code shall be guilty of a serious misdemeanor~~, and shall be subject to a fine of not less than five hundred nor more than one thousand dollars for each and every offense, but such penalties shall not apply to companies hauling cars belonging to railroads other than those of this state which are engaged in interstate traffic.~~"

3. Page 370, by striking lines 21 and 22 and inserting in lieu thereof the following:

"477.19 VIOLATIONS. Any ~~person,~~ railway ~~company, terminal transfer, or other~~ corporation ~~or company who~~ which violates".

4. Page 371, by striking lines 2 through 4 and inserting in lieu thereof the following:

"477.24 VIOLATIONS. Any ~~person, firm, or~~ railroad corporation owning such line of railway or the equipment operated thereon, ~~who~~ which shall cause or permit any locomotive, power vehicle, power".

5. Page 371, line 31, by striking the word "company" and inserting in lieu thereof the words "~~company~~ corporation".

6. Page 373, by striking lines 1 through 9.

7. Page 373, line 12, by inserting after the word "railroad" the word "corporation".

8. Page 373, line 26, by inserting after the word "railroad" the word "corporation".

9. Page 373, by striking lines 33 through 35 and page 374 by striking lines 1 and 2 and inserting in lieu thereof the following:

"478.10 FAILURE TO FENCE--GENERAL PENALTY. If the railroad corporation~~, officer thereof, or lessee~~

~~owning or engaged in the operation of any railroad in the state~~ refuses or neglects to comply with any provision of this chapter relating to the fencing of the tracts, such railroad corporation~~, officer, or lessee~~".

10. Page 374, line 11, by striking the word "company" and inserting in lieu thereof the words "~~company~~ corporation".

11. Page 374, by striking lines 25 through 35 and page 375, by striking lines 1 through 7.

12. Page 377, by striking lines 13 through 25.

13. Page 422, line 32, by inserting after the numeral "(474.41)," the words and numerals "four hundred seventy-seven point fifty-eight (477.58), four hundred seventy-seven point fifty-nine (477.59), four hundred seventy-seven point sixty (477.60), four hundred seventy-nine point nineteen (479.19), four hundred seventy-nine point one hundred nine (479.109), four hundred seventy-nine point one hundred ten (479.110), four hundred seventy-nine point one hundred eleven (479.111), four hundred seventy-nine point one hundred twelve (479.112), four hundred seventy-nine point one hundred thirteen (479.113), four hundred seventy-nine point one hundred fourteen (479.114), four hundred seventy-nine point one hundred fifteen (479.115),".

14. By renumbering sections.

H-5927 FILED MARCH 23, 1976 BY KRAUSE of Palo Alto

Lost 4/19 (2014) adopted 4/22 (2094)
Motion to reconsider filed 4/19 (2023) Motion prevailed 4/22

)28

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 215, line 21, by striking the words "of confinement for more than ninety days,".

2. Page 215, line 23, by inserting after the word "corrections" the words "or to a local agency established under chapter two hundred seventeen (217) of the Code".

3. Page 215, line 28, by inserting after the word "director" the words "or the local corrections agency".

4. Page 223, by striking lines 14 through 19 and inserting in lieu thereof the following:

"Section 501. NEW SECTION. PROBATION AND PAROLE SERVICE. Pursuant to designation by the court, parole and probation services shall be provided by the department of social services or by a local agency established under chapter two hundred seventeen (217) of the Code. Parole and probation officers shall perform the duties assigned to them by law and by the director of the agency by which they are employed."

5. Page 223, line 20, by inserting after the word "PAROLE" the words "AND PROBATION".

6. Page 223, line 20, by inserting after the word "Parole" the words "and probation".

7. Page 223, line 23, by inserting after the word "Parole" the words "and probation".

8. Page 223, line 27, by striking the word "the".

9. Page 223, line 28, by striking the word "his" and inserting in lieu thereof the words "each person's".

10. Page 223, line 29, by striking the word "him" and inserting in lieu thereof the word "that person".

11. Page 223, line 29, by inserting after the word "his" the words "or her".

12. Page 223, line 30, by striking the word "and" and inserting in lieu thereof the word "or".

13. Page 223, line 30, by inserting after the word "Parole" the words "and probation".

14. page 223, line 35, by inserting after the word "agencies" the words "which offer services of a corrective nature".

15. Page 224, by striking lines 19 through 27 and inserting in lieu thereof the following:

"Section 504. NEW SECTION. COOPERATION BY STATE AND LOCAL PAROLE AND PROBATION SERVICES.

1. Any district court which designates persons or agencies established under chapter two hundred seventeen (217) of the Code to provide probation and parole services to any person shall receive and distribute a proportionate share of the moneys

appropriated for community-based corrections by the legislature. Moneys received by a court shall be determined by the workload assumed by community-based persons and agencies pursuant to the court's designation. Workloads shall be determined as follows:

a. Each parolee or probationer assigned to the person or agency represents one unit.

b. Each person receiving pre-trial supervision represents three units.

c. Each pre-sentence investigation represents one unit.

2. State and local parole and probation agencies shall cooperate in the use of facilities established within the community for local correctional treatment and shall cooperatively share the benefits received from the establishment of contracts for services funded by legislative appropriations and provided by private agencies."

16. Page 229, line 12, by striking the words "by the probation" and inserting in lieu thereof the words "by probation".

17. Page 229, line 13, by striking the word "service" and inserting in lieu thereof the word "services".

18. Page 232, by inserting after line 24 the following:

"2. Of any local agency established under chapter two hundred seventeen (217); or".

19. Page 232, line 25, by striking the figure "2" and inserting in lieu thereof the figure "3".

20. Page 234, by striking lines 3 through 6.

21. Page 234, line 7, by striking the words "prescribe. The".

22. Page 234, line 7, by striking the word "such" and inserting in lieu thereof the word "any".

23. Page 234, line 8, by inserting after the word "person" the words "assigned to a local correctional agency".

24. Page 234, line 8, by striking the word "he" and inserting in lieu thereof the words "that person".

25. Page 234, line 13, by striking the word "him" and inserting in lieu thereof the words "the person".

26. Page 241, line 14, by striking the words and figures "section five hundred four (504)" and inserting in lieu thereof the words and figures "sections one hundred eight (108) and five hundred one (501)".

27. By correcting internal references.

a, b, c, d, f adopted 4/21 (2074)
e, g withdrawn 4/21 (2074)
Motion to reconsider A4/21 (2079)
prevailed 4/22
d amended by 6374 and lost 4/22 (2090)
26.60

H-5928 FILED MARCH 23, 1976 BY MIDDLETON of Black Hawk

H-5938

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 421, by striking line 31.
2. Page 421, line 32, by striking the words and figure "three point three (223.3),".

-5938 FILED
ARCH 23, 1976
adopted 4/20 (2034)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5943

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 116, line 16, by inserting after the word "judge" the words "or district associate judge".

H-5943 FILED
MARCH 23, 1976
Ruled out of order with adoption of 5471 3/25(1422)

BY BRANSTAD of Winnebago

H-5944

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 215, line 21, by striking the words "ninety days" and inserting in lieu thereof the words "one year".
2. Page 220B, line 40, by striking the words "ninety days" and inserting in lieu thereof the words "one year".
3. Page 221, line 3, by striking the words "ninety days" and inserting in lieu thereof the words "one year".

H-5944 FILED
MARCH 23, 1976
adopted 4/1 (1523)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5945

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 215, line 19, by inserting after the word "sentenced" the words "and a statement of the days credited pursuant to section two hundred forty-six point thirty-eight (246.38) of the Code shall be incorporated into the sentence".
2. Page 215, by striking lines 29 through 34.

H-5945 FILED
MARCH 23, 1976
adopted 4/1 (1521)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5946

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 213A, by striking lines 5 through 11.

H-5946 FILED
MARCH 23, 1976
adopted 4/1 (1520)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5932

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 71, by striking lines 1 through 5.
2. Page 71, line 19 by striking the words "peace officer" and inserting in lieu thereof the words "law enforcement agency".

H-5932 FILED MARCH 23, 1976 BY KREAMER Of Polk
Lost 3/23 (1383)

H-5933

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 83, by striking all of line 24.

H-5933 FILED MARCH 23, 1976 BY KREAMER Of Polk
Withdrawn 3/23 (1392)

H-5934

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 102, by striking lines 31 through 33 and inserting in lieu thereof the following: "prevents him from appreciating the charge against him, understanding the proceedings, or assisting effectively in his defense, further proceedings must be suspended and a hearing had upon that question."

H-5934 FILED MARCH 23, 1976 BY KREAMER of Polk
adopted 3/25 (1415)

H-5935

Amend amendment H-5669, to page 218, Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 1, by inserting after line 9 the following:
"3. Page 219, line 11, by striking the word "commissioner" and inserting in lieu thereof the word "director".

H-5935 FILED MARCH 23, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair
Ruled out of order with adoption of 5758 4/2

H-5936

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 225B, by striking lines 38 and 39.

H-5936 FILED MARCH 23, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair
adopted 46-44 4/14 (p. 1940)

H-5937

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 227A, by striking lines 18 through 23.

H-5937 FILED MARCH 23, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair
adopted 48-46 4/14 (1942)

H-5947

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 154, line 2, by inserting after the word "admissible" the words "to impeach the witness".

2. Page 154, line 3, by striking the words "or hearing".

H-5947 FILED MARCH 23, 1976
Withdrawn 3/31 (1500)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5948

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 237, by striking lines 26 through 35.

H-5948 FILED MARCH 23, 1976
Adopted 4/14 (1948)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5949

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 153, by striking lines 18 through 23.

H-5949 FILED MARCH 23, 1976
Adopted 4/21 (2067)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5950

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 105, line 19, by inserting after the word "hearing" the words "and inform the defendant of the date of the preliminary hearing".

H-5950 FILED MARCH 23, 1976
Adopted 3/25 (1415)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5951

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 104, line 30, by striking the word "and".

2. Page 105, line 31, by inserting after the word "release" the words "and shall provide the defendant with a copy of the complaint".

H-5951 FILED MARCH 23, 1976
Adopted 3/25 (1415)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5952

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 225A, line 23, by striking the words "three years" and inserting in lieu thereof the words "one year".

H-5952 FILED MARCH 23, 1976

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

Adopted 59-27 4/12 (1879)

H-5953

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 238A, line 4, by striking the words "reasonable grounds" and inserting in lieu thereof the words "probable cause".

H-5953 FILED MARCH 23, 1976
adopted 4/14 (1949)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5954

Amend Senate File 85 as follows:

1. Page 69, line 24, by inserting after the word "shall" the words ", except as otherwise provided".

H-5954 FILED MARCH 23, 1976
adopted 3/23 (1383)

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION
JESSE of Polk, Chair

H-5956

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 74, by striking lines 6 through 20.

H-5956 FILED MARCH 24, 1976

BY GENTLEMAN of Polk
adopted 3/23 49-47 (p. 1390)
Motion to reconsider filed 3/25 (1427) Lost 4/22 (2087)

H-5959

Amend Senate File 85 as follows:

1. Page 66A, by inserting after line 12 the following new paragraph:

"____. "Complaint" means a statement in writing, under oath or affirmation, made before a magistrate, of the commission of a public offense, and accusing someone thereof. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure."

2. Page 66A, by inserting after line 12 the following new paragraph:

"____. "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."

3. Page 66A, line 24 by inserting after the word "aggravated" the words "or serious".

4. Page 66A, line 27 by striking the words "or serious".

5. Page 69, by striking lines 25 through 29 and inserting in lieu thereof the word "person."

H-5959 FILED MARCH 24, 1976
adopted 3/25 (1408)

BY KREAMER of Polk

H-5961

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 289, by inserting after line 12 the following:

"Sec. ___. Section one hundred twenty-three point thirty-nine (123.39), Code 1975, is amended by adding the following new subsection:

7. Violation of an ordinance adopted pursuant to section three hundred thirty-two point three (332.3), subsection twenty-nine (29) of this Code."

2. Page 347, by inserting after line 30 the following:

"Sec. ___. Section three hundred thirty-two point three (332.3), Code 1975, is amended by adding the following new subsection:

29. To adopt an ordinance prohibiting a holder of a liquor license or beer permit or any owner, manager, or person who exercises direct control over any licensed premises as defined in section one hundred twenty-three point three (123.3), subsection thirty-one (31) of the Code to allow or permit any of the following to occur on such licensed premises:

a. Performances of actual or simulated sex acts.

b. The exposure of the genitals or buttocks or female breast nipple of any person who acts as a waiter, waitress, or entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

c. Any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals, buttocks, pubic hair or anus.

d. The displaying of films or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

Provided that the provisions of this subsection shall not apply to a theater, concert hall, or similar establishment which is primarily devoted to theatrical performances and any of the circumstances contained in this section were permitted or allowed as part of such performances.

Any person who violates the provisions of an ordinance adopted pursuant to this subsection shall be guilty of a serious misdemeanor."

H-5961 FILED MARCH 24, 1976 BY SPEAR of Lee

Out of order with adoption of 5870A 4/22 (2086)

H-5962

Amend Senate File 85 as follows:

1. Page 65, by inserting after line 29 the following new subsection:

"_____. Such employees of the department of transportation as are designated "peace officers" by resolution of the department under section three hundred twenty-one point four hundred seventy-seven (321.477), Code 1975."

H-5962 FILED MARCH 24, 1976 BY BRUNOW of Appanoose

Adopted 3/25 (1407)

H-5963

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 73, line 18, by striking the word "must" and inserting in lieu thereof the word "should".

2. Page 73, line 31, by inserting after the word "issued." the following: "Failure to comply with this section shall not render the arrest invalid."

H-5963 FILED BY KREAMER of Polk
MARCH 24, 1976 Lost 34-45 3/25 (1468)

H-5965

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 221, by striking lines 24 through 32 and inserting in lieu thereof the following:

"Sec. 401. NEW SECTION. BOARD OF PAROLE. The board of parole shall consist of five electors of the state. Not more than three members shall belong to the same political party. At least two members shall be practicing attorneys-at-law at the time of appointment. Each member shall serve for five years from July first of the year of appointment, except appointees to fill vacancies who shall serve for the balance of the unexpired term. The chairperson of the board shall be elected by the members of the board to a term of one year and may serve more than one term. A majority of the members of the board shall constitute a quorum to transact business."

2. Page 222, by striking lines 11 through 16 and inserting in lieu thereof the following:

"Sec. 403. NEW SECTION. TRANSITION. Persons serving on the board of parole on June 30, 1976 shall continue as members of the board of parole until they have served the term for which they were appointed with the conditions and salary of the initial appointment, and shall be deemed to fill a membership position as provided by section four hundred one (401) of this Act. Initial appointment to fill the additional membership positions created by section four hundred one (401) of this Act shall serve as follows:

1. One member shall serve until June 30, 1978.

2. The other member shall serve until June 30, 1981."

3. Page 222, by striking lines 17 through 28.

4. Page 223, line 4, by striking the word "two" and inserting in lieu thereof the word "four".

5. Page 238B, by striking lines 36 and 37 and inserting in lieu thereof the following: "probable cause hearing, a magistrate appointed pursuant to section six hundred two point fifty-one (602.51) of the Code".

6. Page 238B, line 45, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

7. Page 239, line 1, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

8. Page 239, line 3, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

9. Page 239, line 10, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

10. Page 239, line 12, by striking the words "LIAISON OFFICER" and inserting in lieu thereof the word "MAGISTRATE".

11. Page 239, line 15, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

12. Page 239, line 18, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

13. Page 239, line 23, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

14. Page 240, line 6, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

15. Page 240, line 25, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

16. Page 242, line 9, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

17. By renumbering the sections in accord with this amendment.

H-5965 FILED MARCH 24, 1976

BY LIPSKY of Linn
DOYLE of Woodbury

Adopted as amended by 6061 4/12
Motion to Recede (1880) Lost 4/22 (209-
P.P. 1876, 1877

H-5971

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 337, by striking lines 7 through 28 and inserting in lieu thereof the following:

"Sec. ___. Section three hundred twenty-one point two hundred eighty-one (321.281), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

321.281 OPERATING UNDER THE INFLUENCE.

1. Whoever operates a motor vehicle upon the public highways of this state under the influence of an alcoholic beverage, a narcotic, hypnotic or other drug, or having alcohol in their blood above the limits prescribed by this section shall be guilty of a public offense.

2. Any person who operates a motor vehicle upon the public highways of this state having ten or more hundredths of one per centum by weight of alcohol in the blood shall upon a plea of guilty or conviction be guilty of a simple misdemeanor and shall be imprisoned in the county jail for not less than seven days.

3. Any person who operates a motor vehicle upon the public highways of this state having fifteen or more hundredths of one per centum by weight of alcohol in the blood shall upon a plea of guilty or conviction be guilty of a serious misdemeanor.

4. Any person who operates a motor vehicle upon the public highways of this state having more than nineteen hundredths of one per centum by weight of alcohol in the blood shall upon a plea of guilty or conviction be guilty of a serious misdemeanor and, upon a third offense of this section, be guilty of an aggravated misdemeanor.

5. Any person who violates the provisions of subsection one (1) of this section and is not subject to the provisions of subsections two (2), three (3), or four (4) of this section shall upon a plea of guilty or conviction be guilty of a serious misdemeanor for the first offense, be guilty of an aggravated misdemeanor for the second violation of this section, and be guilty of a class "D" felony for the third violation of this section.

6. The court in pronouncing sentence shall provide as to the period during which a new license to operate a motor vehicle shall not be issued to the defendant. Notwithstanding the provisions of section three hundred twenty-one point two hundred twelve (321.212) of the Code, the period for violation of subsection two (2) of this section shall not be less than one hundred

twenty days, the period for violation of subsection three (3) of this section shall be one year, the period for violation of subsection four (4) of this section shall be five years, and the periods for violation of subsection five (5) of this section shall be not less than one hundred twenty days for the first violation and shall be one year for the second violation of this section; and upon a third violation of this section the defendant shall never be issued a new license. All periods of license ineligibility shall be consecutive. The clerk of the court shall forthwith certify to the department a true copy of the judgment sentencing the defendant under this section. The department may receive an application for and shall grant a new license at the expiration of the period provided in the judgment of the court notwithstanding the provisions of sections three hundred twenty-one point one hundred seventy-seven (321.177) and three hundred twenty-one point two hundred twelve (321.212) of the Code.

7. The court shall after pronouncing sentence cause the clerk to certify a true copy of the judgment to the Iowa liquor control commission. Said commission upon receipt of such copy shall cause notice of such conviction and judgment to be sent to the manager of each liquor store in the state which notice shall be posted therein.

8. This section shall not apply to a person operating a motor vehicle while under the influence of a narcotic, hypnotic or other drug if such substances were prescribed for such person and have been taken under such prescription and in accordance with the directions of a reputable doctor of medicine, provided however there is no evidence of the consumption of alcohol and further provided said doctor of medicine has not directed such person to refrain from operating a motor vehicle.

9. In lieu of, or prior to imposition of, the punishment above described for the first and second offense, the court upon hearing may commit the defendant for treatment of alcoholism or drug addiction or dependency to any hospital or institution in Iowa providing such treatment. The court may prescribe the length of time for such treatment or it may request that the hospital to which the person is committed immediately report to the court when the person has received maximum benefit from the program of the hospital or institution or has recovered from his addiction, dependency or tendency to chronically abuse alcohol or drugs. A person committed under this

section shall be considered a state patient."

2. Page 340, by inserting after line 6 the following:

"Sec. ____. Section three hundred twenty-one B point seven (321B.7), Code 1975, is amended to read as follows:

321B.7 REFUSAL TO SUBMIT. If a person under arrest refuses to submit to the chemical testing, no test shall be given, but the director, upon the receipt of a sworn report of the peace officer that he had reasonable grounds to believe the arrested person to have been operating a motor vehicle upon a public highway of this state while under the influence of an alcoholic beverage, that he had placed such person under arrest for the offense of operating a motor vehicle while under the influence of an alcoholic beverage and that the person had refused to submit to the chemical testing, shall, notwithstanding the provisions of section three hundred twenty-one point two hundred twelve (321.212) of the Code, revoke his license or permit to drive and any nonresident operating privilege for a period of not less than one hundred twenty days nor more than one year if the person does not have a prior conviction of section three hundred twenty-one point two hundred eighty-one (321.281) of the Code, for a period of one year if the person has a prior conviction of section three hundred twenty-one point two hundred eighty-one (321.281) of the Code, and permanently if the person has two prior convictions of section three hundred twenty-one point two hundred eighty-one (321.281) of the Code; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit within one year from the date of the alleged violation, subject to review as hereinafter provided. The effective date of any such revocation shall be twenty days after the director has mailed notice of such revocation to such person by registered or certified mail."

3. By renumbering the sections in accordance with this amendment.

H-5971 FILED BY JUNKER of Woodbury
MARCH 24, 1976 amended by 6049 and 6338 and adopted 4/20 (2042) 75-20

H-5972

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 78, line 33, by striking the word "Any" and inserting in lieu thereof the words "Except for citations for traffic violations, any".

2. Page 78, line 35 by inserting after the word "misdemeanor." the words "Failure to appear in response to a citation for a traffic violation shall be governed by subsection four hundred eighty-seven (487) of section three hundred twenty-one (321) of the Code."

H-5972 FILED BY KREAMER of Polk
MARCH 24, 1976 Withdrawn 3/25 (1409)

H-5973

Amend Senate File 85 as amended, passed, and reprinted by the Senate, as follows:

1. Page 81, by striking lines 13 and 14 and inserting in lieu thereof the words "herein, the court shall issue a warrant for the arrest of the president of the corporation, as provided for the arrest of persons under this chapter."

2. Page 82, lines 3 and 4, by striking the words "judgment will be pronounced against you" and inserting in lieu thereof the words "an arrest warrant will issue against the president of A. B. Company".

H-5973 FILED, LOST BY BRANSTAD of Winnebago
MARCH 25, 1976 (1409)

H-5974

Amend Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 83, line 33, by inserting after the word "searched" the words "and the property to be seized".

A 2. Page 83, line 35, by striking the words "The application".

3. Page 84, line 1, by striking the words "shall describe the property to be seized."

B 4. Page 84, line 8, by striking the words "The magistrate may in".

5. Page 84, by striking lines 9 through 11.

H-5974 FILED BY BRANSTAD of Winnebago
H-5974A ADOPTED 51-40 (1410)
H-5974B LOST, MARCH 25, 1976

H-5975

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 126, by inserting after line 29 the following new paragraph:

"____. ADDITIONAL VERIFICATION. When the ground alleged in the motion filed by the defendant is excitement or prejudice against him in the county, it must be verified by the affidavit of three disinterested persons who are residents of the county from which the change is sought in addition to the affidavit of the petitioner himself."

2. By renumbering paragraphs within the subsection.

H-5975 FILED BY KREAMER of Polk
MARCH 25, 1976 Lost 3/25 (1426)

H-5976

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 128, by inserting after line 24 the following new subparagraph:

"(__) STATE'S RIGHT TO EXPERT EXAMINATION. Where a defendant has indicated the use of the defense of insanity, and has engaged an expert or experts for the purpose of examining him on the issue of insanity, the court shall order the examination of the defendant by a state-named expert or experts."

H-5976 FILED MARCH 25, 1976 BY KREAMER of Polk

adopted 46-25 (1477) 3/30

H-5977

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 130B, by striking lines 37 through 57 and inserting in lieu thereof the following: "the showing of necessity arising from the fact that there is a likelihood that the prospective witness to be deposed will be unavailable at the time of trial."

H-5977 FILED MARCH 25, 1976 BY KREAMER of Polk

Ruled out of order with adoption of 5510 3/30 (1480)

H-5978

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 131, by striking lines 33 through 36 and inserting in lieu thereof the following: "shall be such as would be allowed in the trial itself. Either party shall make available to the other party or his counsel, for examination and use at the taking of the deposition, any statement of the witness being deposed which is in the possession of the other party and to which that party would be entitled at the trial "

2. Page 132, by striking lines 1 and 2.

H-5978 FILED MARCH 25, 1976 BY KREAMER of Polk

Ruled out of order with adoption of 5510 3/30 (1480)

H-5979

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 85, line 13, by striking the word "either" and inserting in lieu thereof the word "any".

2. Page 85, by inserting after line 17, the following:

"3. To remove any item which is capable of causing bodily harm that the person may use to resist arrest or effect his escape."

H-5979 FILED ADOPTED, MARCH 25, 1976 BY OAKLEY of Clinton

adopted 3/25 (1411)

H-5980

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 113, by inserting after line 2, the following:

"Rule ____. STATE GRAND JURY.

1. A state grand jury is created. Whenever the attorney general deems it to be in the public interest to convene a state grand jury he shall petition the chief justice of the supreme court to impanel a state grand jury. The chief justice shall, upon finding that it would be in the public interest, issue an order to the clerk of the supreme court to summon a state grand jury panel.

2. The clerk of the supreme court, upon receipt of the order of the chief justice, shall prepare a list of not less than fifty prospective grand jurors drawn by lot from the current grand jury lists of the several counties.

3. The sheriffs of the counties in which prospective members of the grand jury reside shall, upon the request of the clerk of the supreme court, cause the prospective grand jurors to be summoned for service.

4. The chief justice of the supreme court shall impanel a state grand jury of seven members from the panel selected as provided in section two (2) of this amendment in the same manner as a county grand jury, and the members shall have the same qualifications as the members of a county grand jury, except that challenges shall be made only by the attorney general.

5. The state grand jury shall have the power to return indictments, make presentments or issue reports following their investigation into the matter or matters for which they have been convened, the indictments, presentments or reports shall be returned to the supreme court and the supreme court shall make public the indictment after it has been filed and the defendant or defendants apprehended and arrested and may make public any presentment or report of the state grand jury.

6. The state grand jury shall have the same powers and authority as a county grand jury, except its jurisdiction and process shall extend throughout the state.

7. The procedures and duties of the state grand jury shall be the same as a county grand jury except:

a. The chief justice of the supreme court or an associate justice of the supreme court or a judge of the district court designated by the chief justice shall entertain all questions and applications of the

state grand jury and shall have jurisdiction over all matters pertaining to the state grand jury.

b. Presentation of evidence shall be by the attorney general.

c. Subpoenas and other process shall be issued by the clerk of the supreme court at the request of the attorney general or the state grand jury.

d. Fees for the members of the state grand jury shall be the same as for members of county grand juries and their expenses and the expenses of witnesses shall be the same as for state employees.

e. An indictment cannot be found without the concurrence of five grand jurors. Every indictment must be endorsed "a true bill" and the endorsement signed by the foreman of the grand jury.

f. Any indictment, presentment, or report by the state grand jury shall be returned to the supreme court.

g. Indictments may be returned by the state grand jury in multiple counts against multiple defendants and may on motion of the attorney general be consolidated for trial with indictments returned by county grand juries when the charges arise from the same transaction or series of transactions and there are common questions of fact and law as to all.

h. The attorney general shall prosecute any indictment returned by the state grand jury or designate a prosecutor.

i. Any indictment by the state grand jury shall be returned without designation of venue, and the chief justice or an associate justice or a district court judge designated by the chief justice shall fix the county of venue for trial notwithstanding any provisions of this amendment to the contrary.

j. Venue shall be in the county where a substantial number of the acts constituting the crime or crimes charged in the indictment were committed, and the trial court shall have jurisdiction to try the entire indictment.

k. A state grand jury shall be empowered to act for a period of one year unless discharged or extended by the chief justice upon motion of the attorney general.

l. Section six hundred twenty-two point sixty-eight (622.68) of the Code shall not apply to the state grand jury.

m. The special duties of the grand jury enumerated

in chapter two (2), section one thousand three hundred one (1301), rule three (3), subsection j, of this Act shall not apply to the state grand jury.

n. Notwithstanding the provisions of chapter two (2), section one thousand three hundred one (1301), rule three (3), subsection d, of this Act, the county attorney may not appear before the grand jury on his own request for the purpose of giving information or for the purpose of examining witnesses.

o. All expenses of the state grand jury shall be payable out of the general fund of the state from funds not otherwise appropriated.

There is hereby appropriated from the general fund of the state, from funds not otherwise appropriated, such funds as are sufficient to pay the expenses of any state grand jury."

2. By renumbering rules in the section.

H-5980 FILED, LOST BY KREAMER of Polk
MARCH 25, 1976 27-66 (1420)

H-5981

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 134, line 27, by striking the word "may" and inserting in lieu thereof the word "shall".
2. Page 135A, line 2, by striking the word "may" and inserting in lieu thereof the word "shall".

H-5981 FILED BY KREAMER of Polk
MARCH 25, 1976 Ruled out of order w/o adoption of 55/0 3/30 (1481)

H-5982

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 143, by striking lines 33, 34, and 35 and inserting in lieu thereof the words: "waive the making of such statement."

H-5982 FILED BY KREAMER of Polk Motion to reconsider filed 3/30 (1486)
MARCH 25, 1976 Adopted 73-21 3/30 (1485) " prevailed and held 4/22 (2092)

H-5983

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 144, by striking lines 19, 20, and 21.

H-5983 FILED BY BRANSTAD of Winnebago
MARCH 25, 1976 Lost 3/30 (1485) Motion to reconsider 3/31 (1504) prevailed 4/22 Adopted 4/22 (2092)

H-5984

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 162, line 23, by striking the words ", or reduce".
2. Page 162, by striking line 24.
3. Page 162, line 25, by striking the words "is imposed, or".

H-5984 FILED BY BRANSTAD of Winnebago
MARCH 25, 1976 Adopted 3/31 (1503)

H-5985

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 166A, by striking line 1 and inserting in lieu thereof the word "appeal".

H-5985 FILED BY KREAMER of Polk
MARCH 25, 1976 Withdrawn 4/4 (1949)

H-5988

Amend amendment H-5471 to page 116 of Senate File 85 as follows:

1. Page 1, line 8, by inserting after the word "judge" the words "or district associate judge".

H-5988 FILED BY BRANSTAD of Winnebago
MARCH 25, 1976 Adopted 3/25 (1422)

H-5989

Amend Senate File 85 as follows:

1. Page 116, line 11 by striking the words "a minute of".
2. Page 116, by striking lines 12 through 14 and inserting in lieu thereof ", of each witness whose name is endorsed upon the information, a statement sufficient to enable the defendant to prepare his defense."

H-5989 FILED BY KREAMER of Polk
ADOPTED, MARCH 25, 1976 Adopted 3/25 57-34 (1421)

SENATE FILE 85

H-5992

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 133, by striking lines 3 through 35 and inserting in lieu thereof the following:

"Rule ___. DISCOVERY AND INSPECTION.

1. DEFENDANT'S STATEMENTS--REPORTS OF EXAMINATIONS AND TESTS--DEFENDANT'S GRAND JURY TESTIMONY. Upon motion of a defendant the court may order the attorney for the government to permit the defendant to inspect and copy or photograph any relevant:

a. Written or recorded statements or confessions made by the defendant, or copies thereof, within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government, and

b. Results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government, and

c. Recorded testimony of the defendant before a grand jury.

2. OTHER BOOKS, PAPERS, DOCUMENTS, TANGIBLE OBJECTS OR PLACES. Upon motion of a defendant the court may order the attorney for the government to permit the defendant to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the government, upon a showing of materiality to the preparation of his defense and that the request is reasonable. Except as provided in paragraph b of subsection one (1) of this rule, this rule does not authorize the discovery or inspection of reports, memoranda, or other internal government documents made by government agents in connection with the investigation or prosecution of the case, or of statements made by government witnesses or prospective government witnesses (other than the defendant) to agents of the government except as provided in 18 U.S.C. §3500.

3. DISCOVERY BY THE GOVERNMENT. If the court grants relief sought by the defendant under paragraph b of subsection one (1), or subsection two (2) of this rule, it may, upon motion of the government, condition its order by requiring that the defendant permit the government to inspect and copy or photograph scientific or medical reports, books, papers, documents,

tangible objects, or copies or portions thereof, which the defendant intends to produce at the trial and which are within his possession, custody or control, upon a showing of materiality to the preparation of the government's case and that the request is reasonable. Except as to scientific or medical reports, this subdivision does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents made by the defendant, or his attorneys or agents in connection with the investigation or defense of the case, or of statements made by the defendant, or by government or defense witnesses, or by prospective government or defense witnesses, to the defendant, his agents or attorneys.

4. TIME, PLACE AND MANNER OF DISCOVERY AND INSPECTION. An order of the court granting relief under this rule shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.

5. PROTECTIVE ORDERS. Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted or deferred, or make such other order as is appropriate. Upon motion by the government the court may permit the government to make such showing, in whole or in part, in the form of a written statement to be inspected by the court in camera. If the court enters an order granting relief following a showing in camera, the entire text of the government's statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal by the defendant.

6. TIME OF MOTIONS. A motion under this rule may be made only within ten days after arraignment or at such reasonable later time as the court may permit. The motion shall include all relief sought under this rule. A subsequent motion may be made only upon a showing of cause why such motion would be in the interest of justice.

7. CONTINUING DUTY TO DISCLOSE--FAILURE TO COMPLY. If, subsequent to compliance with an order issued pursuant to this rule, and prior to or during trial, a party discovers additional material previously requested or ordered which is subject to discovery or inspection under the rule, he shall promptly notify the other party or his attorney or the court of the existence of the additional material. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order such party to permit the discovery or inspection

of materials not previously disclosed, grant a continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may enter such other order as it deems just under the circumstances."

2. Page 134, by striking lines 1 through 35.

3. Page 135A, by striking lines 1 through 35.

4. Page 135B, by striking lines 36 through 53.

5. Page 136, by striking lines 1 through 15.

6. By renumbering subparagraphs, paragraphs, subsections and rules as necessary.

H-5992 FILED BY BRANSTAD of Winnebago
MARCH 25, 1976 Recommend adoption of H-5910 3/30 (1450)

SENATE FILE 85

H-5993

Amend the amendment H-5510, to page 130A of Senate File 85, as follows:

1. Page 1, by inserting after line 11 the following:

"1. TIME, PLACE AND MANNER OF DISCOVERY AND INSPECTION. An order of the court granting relief under this rule shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.

2. FAILURE TO COMPLY. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order such party to permit the discovery or inspection, grant a continuance, or prohibit the party from introducing any evidence not disclosed, or it may enter such other order as it deems just under the circumstances.

3. SECRECY OF GRAND JURY. Except where specific provisions require otherwise, grand jury proceedings remain confidential. However, any member of the grand jury and the clerk thereof, and any officer of the court, may be required by the court or any legislative committee duly authorized to inquire into the conduct or acts of any state officer which might be the basis for impeachment proceedings, to disclose the testimony of a witness examined before the grand jury for the purpose of ascertaining whether it is consistent with that given by him before the court or legislative committee, or to disclose the same upon a charge of perjury against the witness, or when in the opinion of the court or legislative committee such disclosure is necessary in the administration of justice. No grand juror shall be questioned for anything he may say or any vote he may give in the grand jury relative to a matter legally pending before it, except for perjury of which he may have been guilty in making an accusation, or in giving testimony to his fellow jurors."

2. Page 1, line 16, by inserting after the word "action." the words "The provisions of rule twelve (12), subsections one (1), two (2), and three (3) shall apply to this rule."

H-5993 FILED - Adopted BY OAKLEY of Clinton
MARCH 25, 1976 3/30 (1479)

H-6005

Amend amendment H-5508 to page 126 of Senate File 85 as follows:

1. Page 1, Line 4, by striking the words "owing to" and inserting in lieu thereof the following:"by reason of".

H-6005 FILED BY JUNKER of Woodbury
ADOPTED BY UNANIMOUS CONSENT
MARCH 25, 1976 (1426)

H-6015

Amend amendment H-5510 to page 130A of Senate File 85 as follows:

1. Page 1, line 4, by striking the word "lines" and inserting in lieu thereof the word "pages".

H-6015 FILED - adopted BY JESSE of Polk
MARCH 26, 1976 3/30 (1479)

H-6014

Amend Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 243, by inserting after line 25 the following:

"DIVISION X

COMPENSATION FOR VICTIMS OF CRIME

Section 1001. NEW SECTION. As used in this Act, unless the context otherwise requires:

1. "Board" means the state appeals board as defined in section twenty-three point one (23.1) of the Code.

2. "Claimant" means the person filing a claim pursuant to this Act.

3. "Crime" means an act committed in this state which would, if committed by a mentally competent criminally responsible adult, who has no legal exemption or defense, constitute a crime as defined in and prescribed by the penal law, provided, however, that no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purposes of this Act unless the injuries were intentionally inflicted through the use of a vehicle.

4. "Family", when used with reference to a person, means any person related to such person within the third degree of consanguinity or affinity, any person maintaining a sexual relationship with such person, or any person residing in the same household with such person.

5. "Victim" means a person who suffers personal physical injury as a direct result of a crime.

Sec. 1002. NEW SECTION. The attorney general shall appoint a special assistant attorney general who shall serve as the secretary of the board as provided in section twenty-five point four (25.4) of the Code.

Sec. 1003. NEW SECTION. The board shall have the following powers and duties:

1. To request from the department of public safety, from county or municipal police departments and agencies and from any other state or municipal department or agency, or public authority, and the same are hereby authorized to provide, such assistance and data as will enable the board to carry out its functions and duties.

2. To direct medical examination of victims.

3. To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue subpoenas requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. The powers provided

in this subsection may be delegated by the board to any member or employee thereof.

4. To take or cause to be taken affidavits or depositions within or without the state.

5. To render each year to the general assembly a written report of its activities and recommendations for awards.

Sec. 1004. NEW SECTION.

1. Except as provided in subsection two (2) of this section, the following persons shall be eligible for awards pursuant to this Act:

a. A victim of a crime;

b. A surviving spouse, parent or child of a victim of a crime who died as a direct result of such crime; and

c. Any other person dependent for his principal support upon a victim of a crime who died as a direct result of such crime.

2. A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person or a member of the family of such persons shall not be eligible to receive an award with respect to such claim.

Sec. 1005. NEW SECTION.

1. A claim may be filed by a person eligible to receive an award, as provided in section one thousand four (1004) of this Act, or, if such person is a minor, by his parent or guardian.

2. A claim must be filed by the claimant not later than ninety days after the occurrence of the crime upon which such claim is based, or not later than ninety days after the death of the victim, provided, however, that upon good cause shown, the board may extend the time for filing for a period not exceeding one year after such occurrence.

3. Claims shall be filed in the office of the secretary of the board in person or by mail. The secretary of the board shall accept for filing all claims submitted by persons eligible under subsection one (1) of this section and alleging the jurisdictional requirements set forth in this Act and meeting the requirements as to form in the rules of the board.

4. Upon filing of a claim pursuant to this Act, the board shall promptly notify the county attorney of the county wherein the crime is alleged to have occurred. If, within ten days after such notification, such county attorney advises the board that a criminal prosecution is pending upon the same alleged crime and requests that action by the board be deferred, the board shall defer all proceedings under this Act

until such time as such criminal prosecution has been concluded and shall so notify such county attorney and the claimant. When such criminal prosecution has been concluded, such county attorney shall promptly so notify the board. Nothing in this section shall limit the authority of the board to grant emergency awards pursuant to this Act.

Sec. 1006. NEW SECTION. No award shall be made on a claim unless the claimant has incurred a minimum out-of-pocket loss of one hundred dollars or has lost at least two continuous weeks earnings or support. Out-of-pocket loss shall mean unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based.

Sec. 1007. NEW SECTION.

1. The board shall cause an investigation to be conducted into the validity of each claim. Such investigation shall include, but not be limited to, an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which such claim is based.

2. Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.

3. The board may decide such claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of such claim. If the board is unable to decide such claim upon the basis of such papers and such report, he shall order a hearing. At such hearing any relevant evidence, not legally privileged, shall be admissible.

4. After examining the papers filed in support of such claim and the report of investigation, and after a hearing, if any, the board shall make a decision either granting an award or deny the claim.

5. The board shall file with the secretary a written report setting forth such decision and reasons therefor. The secretary shall thereupon notify the claimant and furnish him a copy of such report.

Sec. 1008. NEW SECTION. Notwithstanding the provisions of section one thousand seven (1007) of this Act, if it appears to the board prior to taking

action upon such claim, that such claim is one with respect to which an award probably will be made, and undue hardship will result to the claimant if immediate payment is not made, the board may make an emergency award to the claimant pending a final decision in the case, provided, however, that the amount of such emergency award shall not exceed five hundred dollars, the amount of such emergency award shall be deducted from any final award made to the claimant, and the excess of the amount of such emergency award over the amount of the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant to the board.

Sec. 1009. NEW SECTION.

1. No award shall be made unless the board finds that a crime was committed, such crime directly resulted in personal physical injury to, or death of, the victim, and police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.

2. Any award made pursuant to this Act shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury.

3. Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this Act, be in an amount equal to the actual loss sustained, provided, however, that no such award shall exceed one hundred dollars for each week of lost earnings or support, and provided further that the aggregate award for such loss shall not exceed fifteen thousand dollars. If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned by the board among the claimants.

4. Any award made pursuant to this Act shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury from or on behalf of the person who committed the crime, under insurance programs mandated by law, from public funds, under any contract of insurance wherein the claimant is the insured or beneficiary, or as an emergency award pursuant to section one

thousand eight (1008) of this Act.

5. In determining the amount of an award, the board shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the board may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony.

6. If the board finds that the claimant will not suffer serious financial hardship, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance pursuant to this Act to meet such loss of earnings, support or out-of-pocket expenses, the board or board members shall deny an award. In determining such serious financial hardship, the board shall consider all of the financial resources of the claimant. The board shall establish specific standards by rule for determining such serious financial hardship.

Sec. 1010. NEW SECTION. The award shall be paid in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to this Act shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

Sec. 1011. NEW SECTION. Acceptance of an award made pursuant to this Act shall subrogate the state, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made.

Sec. 1012. NEW SECTION. The comptroller shall pay to the claimant from funds appropriated by the general assembly for such purposes any initial emergency award granted by the board or a board member within five days after receipt of notice from the board of the emergency award.

Sec. 1013. NEW SECTION. The provisions of chapter twenty-five (25) of the Code shall be applicable unless inconsistent with this division of this

Sec. 1014. This division of this Act applies only to injuries, including those resulting in death, which are inflicted after the effective date of this Act."

H-6014 FILED MARCH 26, 1976

BY LIPSKY of Linn
GILLOON of Dubuque

Ruled not germane, motion to suspend rules lost 4/19 (2005)

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 221, by inserting after line 21 the following:

"DIVISION

HABITUAL CRIMINAL INMATE

Section 1. NEW SECTION. HABITUAL CRIMINAL INMATE DEFINED. Whoever has been convicted of a crime, sentenced to serve a term of imprisonment in this state, any other state, or the United States and who is confined in a penal institution of this state shall be, upon conviction of a new offense, deemed to be a habitual criminal inmate. This section shall not apply to:

1. An inmate serving less than a life sentence if the new crime is that of escape; or,

2. Any inmate who at the time of commission of the new offense is on parole under chapter two hundred forty-seven (247) of the Code, is engaging in a work release program under chapter two hundred forty-seven A (247A) of the Code, or is participating in a furlough program under section two hundred seventeen point fourteen (217.14) of the Code.

Sec. 2. NEW SECTION. INCARCERATION. Upon conviction of a new offense under section one (1) of this division, any incarceration ordered by the sentencing court shall commence immediately upon judgment being rendered as though service of time on any previous sentence was suspended. Any incarceration ordered by the sentencing court shall be within the maximum security unit of the penitentiary or reformatory. Reduction of sentence provisions shall not be calculated as provided in section two hundred forty-six point forty-two (246.42) of the Code, but shall be calculated separately and the provisions of section two hundred forty-six point forty-three (246.43) of the Code shall not apply. Provisions for work release, parole, and furlough shall not apply to a person convicted under section one (1) of this division.

Sec. 3. NEW SECTION. EVIDENCE. A duly authenticated copy of the former judgment and commitment from any court in which such judgment and commitment was had or a copy of either this former judgment or a mittimus from the records of the institution in which the individual is confined shall be competent and prima facie evidence of the former judgment and commitment and may be used in evidence against this individual."

H-6062 FILED MARCH 31, 1976 BY KREAMER of Polk
HANSEN of O'Brien

H-6032

Amend amendment H-5509 to page 128 of Senate File 85 as follows:

1. Page 1, line 5, by striking the word "party" and inserting in lieu thereof the word "person".

H-6032 FILED - adopted 3/30 (1478) MARCH 30, 1976 BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT, SUBCOMMITTEE ON THE CRIMINAL CODE REVISION JESSE of Polk, Chair

H-6038

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 218, by striking lines 10 through 26 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. MAXIMUM TERMS OF IMPRISONMENT. The maximum sentence for any person convicted of a felony shall be that prescribed in the Code or, if not so prescribed, if other than a class A felony shall be determined as follows:

1. A class B felon shall be confined for a term not to exceed fifty years.

2. A class C felon shall be confined for a term not to exceed fifteen years and may be sentenced to a fine of not more than five thousand dollars.

3. A class D felon shall be confined for a period not to exceed five years and may be sentenced to a fine of not more than one thousand dollars."

6038 FILED MARCH 30, 1976 BY BRANSTAD of Winnebago withdrawn 4/2 (1556)

H-6039

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 231, by striking lines 28 through 35.

2. Page 232, by striking lines 1 through 13 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. LENGTH OF PROBATION. The length of the probation shall be for such term as the court may determine, but not to exceed five years if the offense is a felony or not to exceed two years if the offense is a misdemeanor. However, if the person is ordered placed under the custody, care and supervision of the probation and parole service, the term of probation, subject to the preceding maximum term of years, shall be determined by the board of parole, and the probation of the defendant shall be supervised by the probation and parole service.

The length of the probation shall not be less than one year and shall not be less than two years if the offense is a felony. However, the court or board of parole may subsequently reduce the length of the probation if it determines that the purposes of probation have been fulfilled, as provided in section seven hundred eight (708) of this division.

In determining the length of the probation, the court shall first 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."

H-6039 FILED - Withdrawn BY BRANSTAD of Winnebago
MARCH 30, 1976 4/14 (1947)

H-6040

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 237, by inserting after line 35 the following:

"Sec. ___. NEW SECTION. JAIL SENTENCE DISCRETIONARY. Notwithstanding the other sections in this division, if a person is granted a deferred judgment, suspended sentence or probation, the court may, in its discretion, commit such person to the county jail for a period not to exceed thirty days."

2. Renumber the bill sections accordingly.

H-6040 FILED - Lost 24-47 BY BRANSTAD of Winnebago
MARCH 30, 1976 4/14 (1948)

H-6041

Amend Senate File 85 as passed and reprinted by the Senate as follows:

1. Page 218, by striking lines 3 through 9.

2. Page 221, by inserting after line 21 the following:

"DIVISION

HABITUAL CRIMINALS

Section 1. NEW SECTION. THIRD CONVICTION OF A CLASS B FELONY. Whenever any person has been twice convicted of a crime in this or any other state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least twenty-five years each, he shall, upon conviction of a class B felony committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than fifty years.

Sec. 2. NEW SECTION. THIRD CONVICTION OF A CLASS C FELONY. Whenever any person has been twice convicted of a crime in this or any other state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least ten years each, he shall, upon conviction of a class C felony committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than thirty-five years.

Sec. 3. NEW SECTION. THIRD CONVICTION OF A CLASS D FELONY. Whenever any person has been twice convicted of a crime in this or any other state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least five years each, he shall, upon conviction of a class D felony committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than twenty-five years.

Sec. 4. NEW SECTION. FOURTH CONVICTION OF AN INDICTABLE MISDEMEANOR. Whenever any person has been three times convicted of a crime in this or any other state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least two years each, he shall, upon conviction of an indictable misdemeanor committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the peniten-

tiary for a term of not more than six years.

Sec. 5. NEW SECTION. FOURTH CONVICTION OF A NON-INDICTABLE MISDEMEANOR. Whenever any person has been three times convicted of a crime in this or any other state, or by the United States, or once in this state, or by the United States, or once in this state and at least once in any other state, or by the United States, for terms with a possible maximum of at least thirty days each, he shall, upon conviction of an indictable misdemeanor committed in this state after the taking effect of this section, be deemed a habitual criminal, and shall be punished by imprisonment in the penitentiary for a term of not more than three years.

Sec. 6. NEW SECTION. MANDATORY MINIMUM SENTENCE. A person sentenced pursuant to any of the preceding sections in this division shall not be eligible for parole until he has served one-third of his sentence.

Sec. 7. NEW SECTION. EVIDENCE. On the trial of any of said offenses named in sections one (1), two (2), three (3), four (4) and five (5) of this division, a duly authenticated copy of the record of the former judgment in any court wherein said conviction was had, for any of said crimes against the party indicted, shall be prima facie evidence of such former conviction and may be used in evidence against said party.

Sec. 8. NEW SECTION. DUTIES OF JURY AND JUDGE. Upon any trial when the indictment refers to former convictions of the defendant, the jury, if it finds the defendant guilty, and the court, if the defendant is convicted on a plea of guilty, must also find and determine specially whether the defendant had previously been convicted of either of the crimes referred to in the indictment, and the number of times so convicted.

Sec. 9. NEW SECTION. PARDON FOR FORMER CRIME. If the person convicted shall show, to the satisfaction of the court before whom such conviction was had, that he was released from imprisonment, upon any of said sentences, upon a pardon granted for the reason that he was innocent, such conviction shall not be considered as such under any of the previous sections in this division.

H-6041 FILED MARCH 30, 1976

BY HALVORSON of Clayton

Code 38-54 4/ (1540) Motion to reconsider (1543) Motion lost 4/ (2094

H-6053

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 230, by inserting after line 3 the following new subparagraph:

"____. The offense is a felony other than a class D felony."

H-6053 FILED - Lost 30-60 4/14 (1944) BY JUNKER of Woodbury
MARCH 31, 1976 WYCKOFF of Benton

H-6057

Amend amendment H-5477 to page 146 of Senate File 85 as follows:

1. Page 1, line 3, by striking "34 and 35" and inserting in lieu thereof "31 and 32".

H-6057 FILED, ADOPTED BY OAKLEY of Clinton
BY UNANIMOUS CONSENT (1498)
MARCH 31, 1976

H-6058

Amend Amendment H-5660 to Senate File 85, as amended, passed and reprinted by the Senate, page 157, line 11, as follows:

1. Line 4, by striking the word "longer" and inserting in lieu thereof the word "shorter".

H-6058 FILED BY BRANSTAD of Winnebago
MARCH 31, 1976 - Adopted 3/31 (1502)

H-6059

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 166A, line 24, by inserting after the word "shown" the words "or the defendant waives his right thereto".
2. Page 166A, lines 33 and 34, by striking the words "whose trial has not been postponed on his own application" and inserting in lieu thereof the words "has not waived his right to a speedy trial".

H-6059 FILED BY KREAMER of Polk
MARCH 31, 1976 Adopted 3/31 (1504)

H-6060

Amend Senate File 85 as follows:

1. Page 166A, by striking line 1 and inserting in lieu thereof the word "appeal".

2. Page 238A, lines 17 through 19, by striking the words ", shall be advised of his right to appointed counsel under rule twenty-six (26) of the rules of criminal procedure,".

H-6060 FILED BY KREAMER of Polk
MARCH 31, 1976 - Lost 4/14 (1950) 37-49

H-6061

Amend amendment H-5965 to page 221 of Senate File 85 as follows:

1. Page 1, line 21, by striking the numerals "1976" and inserting in lieu thereof the numerals "1978".

2. Page 1, line 31, by striking the numerals "1978" and inserting in lieu thereof the numerals "1980".

3. Page 1, line 33, by striking the numerals "1981" and inserting in lieu thereof the numerals "1983".

H-6061 FILED BY LIPSKY of Linn
MARCH 31, 1976 Adopted 4/12 p. 1876

H-6049

Amend amendment H-5971 to page 337 of Senate File 85 as follows:

1. Page 3, line 24, by inserting after the word "conviction" the words "under the provisions".
2. Page 3, line 27, by inserting after the word "conviction" the words "under the provisions".
3. Page 3, line 30, by inserting after the word "convictions" the words "under the provisions".

H-6049 FILED - Adopted 4/20 BY JUNKER of Woodbury
MARCH 30, 1976 (2042)

H-6050

Amend amendment H-5476 to page 144 of Senate File 85 as follows:

1. Page 1, line 4, by striking the word "fourteen" and inserting in lieu thereof the word "seven".
2. Page 1, line 6, by striking the word "fourteen" and inserting in lieu thereof the word "seven".
3. Page 1, line 8, by striking the word "fourteen" and inserting in lieu thereof the word "seven".

H-6050 FILED - Adopted 3/31 BY OAKLEY of Clinton
MARCH 30, 1976 (1496)

H-6051

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 200, by striking lines 12 through 35 and inserting in lieu thereof the following:

"Sec.___. NEW SECTION. 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.

Sec.___. NEW SECTION. 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."

2. Page 201, by striking lines 1 through 35.
3. Page 202, by striking lines 1 through 7.

H-6051 FILED - Lost 3/31 BY KREAMER of Polk
MARCH 31, 1976 (1508) Motion to reconsider (1509) prevailed. Adopted 4/22 (2093)

H-6052

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 216A, line 12, by inserting after the words "to a term of years" the following: "to be not less than ten years. If a person's sentence is so commuted, the person sentenced pursuant to this section shall not be eligible for parole until the person has served a minimum of ten years of the sentence imposed by law".

H-6052 FILED BY KREAMER of Polk
MARCH 31, 1976 Adopted 69-17 4/1 (1524) Motion to reconsider (1543) " withdrawn 4/22 (2093)

H-6077

Amend Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 227A, lines 22 and 23 by striking the words ", and the terms and conditions of the person's parole" and inserting in lieu thereof the words "and of the length of that person's parole".

H-6077 FILED BY KREAMER of Polk
MARCH 31, 1976 Ruled out of order with adoption of 5937 4/14 (1943)
H-6078

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 230, by striking lines 7 through 22 and inserting in lieu thereof the following:

"b. The defendant attempted to kill anyone during the commission of the offense which was not otherwise a forcible felony.

c. The defendant purposefully inflicted or attempted to inflict a serious injury upon anyone during the commission of the offense. "Serious injury" means death, permanent disability or disfigurement, protracted loss or impairment of the function of any body member or organ, an injury requiring extended treatment or a prolonged healing period, a disaling mental illness requiring extended treatment or prolonged care, or an injury which at the time of deferment of judgment appears likely to result in any of the foregoing.

d. The defendant used, threatened to use or displayed in a threatening manner a dangerous weapon, as defined in section two hundred eight (208) of division I of this Act during the commission of the offense.

e. The defendant committed kidnapping in the first or second degree during the commission of the offense.

f. During the commission of the offense the defendant committed sexual abuse in the first, second or third degree or committed a violation of section two thousand eight hundred two (2802) of division I of this Act with respect to a child twelve years of age or under and which included any of the following:

(1) Force or threat of force;

(2) Fondling or touching the child for the purpose of arousing the offender's prurient interests; or,

(3) Soliciting a sexual act with the child.

g. The defendant previously has been convicted of a felony. An offense is a felony if, by the law under which the defendant is convicted, the maximum punishment of the time of his conviction is at least greater than one year of confinement.

h. 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.

i. 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

H-6078

judgment to the date of commission of the offense."

H-6078 FILED Withdrawn BY KREAMER of Polk

H-6066

Amend amendment H-5484 to page 187 of Senate File 85 as follows:

1. Page 1, line 4 by striking the word "district" and inserting in lieu thereof the word "district."

2. Page 1 by striking line 5.

H-6066 FILED - Adopted BY OAKLEY of Clinton
MARCH 31, 1976 3/31 (1507)

H-6073

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 241, line 15, by striking the words "reasonable grounds" and inserting in lieu thereof the words "probable cause". a

2. Page 241, line 25, by striking the words "initial appearance and". b

3. Page 241, line 27, by striking the word "initial".

4. Page 241, line 28, by striking the word "appearance,".

5. Page 241, line 28, by striking the word "hearing," and inserting in lieu thereof the word "hearing".

H-6073 FILED BY KREAMER of Polk
MARCH 31, 1976 B - Withdrawn, A - Adopted 4/14 (1952)

H-6074

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 239, by striking lines 20 through 23 and inserting in lieu thereof the following: "services. Where necessary the district court of the county in which the probable cause hearing occurred shall, at the request of the liaison office, make such order as is appropriate for the temporary custody of the alleged parole violator pending his transfer to the custody of the department of social services. The liaison officer".

H-6074 FILED BY KREAMER of Polk
MARCH 31, 1976 Withdrawn 4/14 (1951)

H-6075

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 238A, by striking lines 29 through 34 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. TIME AND PLACE OF PROBABLE CAUSE HEARING. The probable cause hearing shall be held in the county in which the alleged parole violation or arrest occurred and as promptly as convenient after the arrest. The clerk of court shall provide a room suitable for the probable cause hearing."

H-6075 FILED BY KREAMER of Polk
MARCH 31, 1976 Withdrawn 4/14 (1951)

H-6076

Amend Senate File 85, as amended, passed and reprinted by the Senate, page 238A, by striking lines 12 through 28.

H-6076 FILED BY KREAMER of Polk
MARCH 31, 1976 Lost 36-51 4/14 (1951)

H-6079

Amend amendment H-5480, to page 161 of Senate File 85, as follows:

1. By striking lines 5 through 8 and inserting in lieu thereof the following:

"c. ON MOTION OF COURT. The court may also, upon its own observation of any of these grounds, arrest the judgment on its own motion."

H-6079 FILED, ADOPTED BY JUNKER of Woodbury
BY UNANIMOUS CONSENT (1509)
MARCH 31, 1976

H-6080

Amend amendment H-5658, to page 225A, Senate File 85 as follows:

1. Page 1, by inserting after line 2, the following:

A "1. Page 216A, by striking lines 13 through 20.

B 2. Page 1, line 6, by inserting after the word "thereafter." the words "If, in the opinion of the board, he should be considered for release on parole, the board shall recommend to the governor that his sentence be commuted to a term of years. If his sentence is so commuted, he shall be eligible for parole as provided in division six (VI) of this chapter."

3. By renumbering the remaining sections of the amendment.

H-6080 FILED BY GENTLEMAN of Polk
MARCH 31, 1976 A-Withdrawn (1895) B-Lost (1896) 4/13

H-6082

Amend Senate File 85 as amended, passed and reprinted by the Senate, as follows:

1. Page 216A, by inserting after the period in line 30 the following: "The court may in its discretion order the director of adult corrections to hold the offender in custody for a minimum period up to but not to exceed one-half of the maximum indeterminate sentence provided for by section two hundred eleven (211) of this division."

H-6082 FILED, ADOPTED BY BENNETT of Ida
APRIL 1, 1976 58-30 (1527)

H-6083

Amend Senate File 85 as follows:

1. Page 218, by striking all of lines 17 and 18.

2. Page 218, line 19, by striking the words "or incorrigible".

3. Page 218, line 23, by striking the words "or incorrigible".

H-6083 FILED BY HALVORSON of Clayton
APRIL 1, 1976 Out of order with loss of motion to reconsider 6041 4/22 (2093)

H-6084

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 214, by striking lines 22 through 31 and inserting in lieu thereof the following: "After receiving and examining all pertinent information, including the pre-sentence investigation report, if any, the court shall consider the sentencing options authorized by this chapter 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."

2. Page 214, by striking lines 34 and 35.

3. Page 215, by striking lines 1 through 12.

H-6084 FILED BY BRANSTAD of Winnebago
APRIL 1, 1976 Withdrawn 4/21 (2071)

H-6085

Amend Senate File 85 as follows:

1. Page 218, by inserting after line 26 the following:

"Sec._____.Section one hundred six (106) of this division notwithstanding, when a judgment of conviction of a felony other than a class "A" felony is entered against any offender, the court in imposing a sentence of confinement shall sentence the offender to a term of not less than one-fourth of the maximum sentence."

2. Page 225A, by striking lines 31 through 35 and inserting in lieu thereof the following: "A person who is under consideration for parole shall be denied such parole unless that person has served at least one-half of the sentence imposed under section one (1) of this amendment."

3. Page 225B, by striking lines 36 and 37.

H-6085 FILED BY JORDAN of Linn
APRIL 1, 1976 Adopted as amended by 6117 4/2 63-19 (1569)

H-6086

Amend Senate File 85 as follows:

1. Page 415, by inserting after line 15 the following new section:

"Sec._____. Any person who willfully violates sections six hundred one A point six (601A.6), subsection one (1), six hundred one A point seven (601A.7), subsection one (1), or six hundred A point eight (601A.8), of the Code, shall, upon conviction be guilty of a class "D" felony."

H-6086 FILED BY HARGRAVE of Johnson
APRIL 1, 1976 Ruled germane (2019) and adopted 4/19 (2020) 61-27 Lost 4/22
Motion to reconsider (2048) Motion prevailed 4/22 39-55 (2095)

H-6087

Amend Senate File 85 as follows:

1. Page 12, by inserting after line 15 the following new section:

"Sec. _____. NEW SECTION. TERMINATION OF LIFE SUPPORT SERVICES. It shall be justifiable for a guardian to order the termination of use of life-assisting apparatus for one, who in the opinion of the treating physician, based on ordinary standards of medical practice, is in a persistent vegetative state, suffers irreversible brain damage, enjoys no cognitiye or cerebral functioning and whose chances of useful sapient life or return of discriminate functioning are remote."

H-6087 FILED BY CONNORS of Polk
APRIL 1, 1976 Out of order with adoption of #335 4/20

H-6088

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 230, line 15, by striking the word "two" and inserting in lieu thereof the word "one".

H-6088 FILED - Lost BY BRANSTAD of Winnebago
APRIL 1, 1976 38-50 4/14 (1946)

H-6089

Amend Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 230, line 19, by striking the word "within".

2. Page 230, by striking lines 20 and 21.

3. Page 230, line 22, by striking the word "offense".

H-6089 FILED - Lost BY BRANSTAD of Winnebago
APRIL 1, 1976 42-44 4/14 (1947)

H-6090

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 240, by striking lines 8 and 9 and inserting in lieu thereof the following: "shall notify in writing the alleged violator, his attorney of record, if any, and the department of social services of such hearing and the claimed violation of parole. The alleged violator".

H-6090 FILED - Adopted BY BRANSTAD of Winnebago
APRIL 1, 1976 4/14 (1951)

H-6091

Amend Senate File 85, as amended, passed, and reprinted by the Senate, page 238A, line 4, by striking the words "reasonable grounds" and inserting in lieu thereof the words "probable cause".

H-6091 FILED BY BRANSTAD of Winnebago
APRIL 1, 1976 Withdrawn 4/14 (1949)

H-6092

p. 436

Amend the Nielsen amendment, H-5665, to Senate File 85, as amended, passed and reprinted by the Senate, page 1, by striking lines 5 and 6 and inserting in lieu thereof the following:

"Sec. ___. The provisions of this Act, except the section amending Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred eighty-three (183), shall take effect January 1, 1978."

H-6092 FILED APRIL 1, 1976 BY HORN of Linn

Withdrawn 4/20 (2037)

H-6093

Amend amendment H-6086, to page 415 of Senate File 85, as follows:

1. Page 1, line 3, by striking the words "new section".

2. Page 1, by inserting after line 9 the following:

"Sec._____. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

H-6093 FILED APRIL 1, 1976 - BY DYRLAND of Clayton

Ruled not germane 4/19 (2019)

H-6094

Amend Senate File 85 as amended, passed and reprinted by the Senate, as follows:

1. Page 425, by inserting after line ~~29~~ 30 the following:

"Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred eighty-three (183), is amended by adding the following:

Sec. ___. NEW SECTION. The provisions of sections one (1) and three (3) of this Act shall not be applicable to persons eighteen years of age or older subsequent to the date that the federal law and regulations no longer mandate that a state's law require motorcyclists eighteen years of age and older when operating or riding a motorcycle to wear a motorcycle helmet as a prerequisite to approval of the state's highway safety program as provided in the Highway Safety Act of 1966, 23 U.S.C. 402."

2. Renumber the sections and correct internal references in conformance with this amendment.

H-6094 FILED APRIL 1, 1976
Rules germane, amended by 6336, Adopted 4/20 64-30 (2036)

BY HORN of Linn
BRUNOW of Appanoose
DAGGETT of Adams
MONROE of Des Moines
SCHROEDER of Pottawattamie
DOYLE of Woodbury
HARGRAVE of Johnson
HANSEN of O'Brien
NEWHARD of Jones
JUNKER of Woodbury
BINNEBOESE of Plymouth
JORDAN of Linn
DYRLAND of Clayton
HUSAK of Tama
DEN HERDER of Sioux
BORTELL of Madison
BYERLY of Polk
KOOGLER of Mahaska
EVANS of Grundy
WOODS of Polk
BINA of Soctt
PAVICH of Pottawattamie
LINDEEN of Henry
MENKE of O'Brien
DANKER of Pottawattamie
WYCKOFF of Benton
MC ELROY of Fremont
CUSACK of Scott
TOFTE of Winneshiek
WEST of Marshall
MILLER of Cerro Gordo
WELLS of Linn
SPRADLING of Sioux
MILLER of Buchanan
RINAS of Linn
MIDDLESWART of Warren
O'HALLORAN of Black Hawk
DUNTON of Keokuk
WULFF of Black Hawk
MIDDLETON of Black Hawk
PERKINS of Greene
BRANSTAD of Winnebago
KREAMER of Polk
WELDEN of Hardin
EGENES of Story
HALVORSON of Clayton
CAFFREY of Polk
HINKHOUSE of Cedar
GILLOON of Dubuque
HARVEY of Scott
CONNORS of Polk
BRANDT of Black Hawk
HINES of Story
GENTLEMAN of Polk
CRABB of Crawford
LONERGAN of Boone
JESSE of Polk
WALTER of Pottawattamie
CLARK of Lee
NIELSEN of Polk
MILLEN of Van Buren

H-6097

Amend amendment H-5579, to page 217A, of Senate File 85, as follows:

1. By striking from line 10 the words "in the state".

2. Line 11, by striking the word "penetentiary".

H-6097 FILED, ADOPTED BY UNANIMOUS CONSENT (15.33) APRIL 1, 1976

BY KREAMER of Polk

H-6113

Amend H-5679 to page 217A of Senate File 85 as follows:

1. Line 5, by striking "OR C".
2. Line 6 and 7, by striking "or C".
3. Line 12, by striking "or C".

H-6113 FILED, ADOPTED BY WYCKOFF of Benton
BY UNANIMOUS CONSENT UPON SUSPENSION OF RULES
APRIL 1, 1976 (1536)

H-6117

Amend amendment H-6085 to page 218 of Senate File 85 as follows:

1. Page 1, by striking lines 4 and 5 and inserting in lieu thereof the following:

"Sec. _____ Except as provided in Division VII of this chapter, when a judgment of".

H-6117 FILED, ADOPTED BY BY KREAMER of Polk
UNANIMOUS CONSENT, APRIL 2, 1976 (1569)

H-6129

Amend amendment H-5758, to page 218 of Senate File 85, as follows:

1. Page 1, line 10, by striking the words "commissioner of social services" and inserting in lieu thereof the words "director of the division of corrections".
2. Page 1, lines 17 and 18, by striking the words "department of social services" and inserting in lieu thereof the words "division of corrections".

H-6129 FILED, ADOPTED BY BY BRANSTAD of Winnebago
UNANIMOUS CONSENT (1570)
APRIL 2, 1976

SENATE FILE 85

H-6255

Amend the Spear amendment H-5165 to Page 227A of Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. By striking lines 5 through 18 and inserting in lieu thereof the following:

"Sec. 608 NEW SECTION. 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, money in accordance with the following schedule:

1. Upon discharge or parole, one hundred dollars.
2. Upon being placed on work release, fifty dollars.
3. Upon going from an educational work release to parole or discharge, fifty dollars."

H-6255 FILED, RECEIVED BY SPEAR of Lee
UNANIMOUS CONSENT TO CONSIDER, ADOPTED (1942)
APRIL 14, 1976

SENATE FILE 85

H-6256

Amend Senate File 85 as follows:

1. Page 230, line 5, by striking the word and figure "seven (907)" and inserting in lieu thereof the word and figure "eight (908)".

H-6256 FILED, RECEIVED BY GENTLEMAN of Polk
UNANIMOUS CONSENT TO CONSIDER, ADOPTED
APRIL 14, 1976 (1946)

SENATE FILE 85

H-6262

Amend amendment H-5591, to page 225A of Senate File 85, as follows:

1. Page 1, line 9, by striking the word "for".

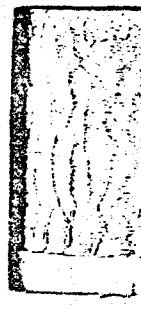
H-6262 FILED, ADOPTED (1878) BY KREAMER of Polk
BY UNANIMOUS CONSENT
APRIL 12, 1976

H-6266

Amend amendment H-6080, to amendment H-5658 to page 225A of Senate File 85, as follows:

1. Line 13, by inserting after the word "parole" the following: ", after compliance with section 201 of this chapter, and".

H-6266 FILED, ADOPTED BY BY GENTLEMAN of Polk
UNANIMOUS CONSENT (1896) Motion to reconsider filed 4/14 (1952)
APRIL 13, 1976 " withdrawn 4/22 (2094)



H-6322

Amend amendment H-5575 to page 318 of Senate File 85 as follows:

1. Page 1, line 25, by striking the word "civil".

2. Page 1, by inserting after line 32 the following:

"All records pertaining to arrests and prosecutions under this paragraph shall be expunged three years after the date of final judgement. A public agency shall not deny or limit any license or privilege to any person as a result of an arrest or prosecution for a violation of this paragraph."

H-6322 FILED, MOVED TO SUSPEND RULES TO CONSIDER, PREVAILED; H-6322 LOST; (2017) MOVED TO RECONSIDER VOTE; MOVED TO DEFER MOTION TO RECONSIDER, PREVAILED APRIL 19, 1976

BY HALVORSON of Clayton
AVENSON of Fayette
WELDEN of Hardin
SCHROEDER of Pottawattamie
CLARK of Lee
HARGRAVE of Johnson
BRUNOW of Appanoose
TOFTE of Winneshiek
KRAUSE of Palo Alto
GRIFFEE of Chickasaw
WULFF of Black Hawk
DYRLAND of Clayton

H-6323

Amend amendment H-6322, to amendment H-5575 to page 318 of Senate File 85, as follows:

1. Page 1, by striking line 5 and inserting in lieu thereof the following:

"2. Page 1, line 32, by inserting after the word "delivery." the".

H-6323 FILED, ADOPTED BY UNANIMOUS CONSENT (2016) APRIL 19, 1976

BY HALVORSON of Clayton

H-6329

Amend the Doyle amendment, H-5512, to page 421 of Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 11, lines 32 and 33, by striking the words and numerals "one hundred nine point seventy-six (109.76),".

2. Page 11, lines 35 and 36, by striking the words and numerals "one hundred nine point ninety-three (109.93),".

3. Page 11, lines 37 and 38, by striking the words and numerals "one hundred nine point one hundred twenty (109.120),".

4. Page 11, lines 40 and 41, by striking the words and numerals ", and one hundred ten point twenty-four (110.24)".

H-6329 FILED, MOVED TO SUSPEND THE RULES TO CONSIDER, PREVAILED; H-6329 ADOPTED (2023) APRIL 19, 1976

BY NIELSEN of Polk

H-6330

Amend amendment H-5512, to page 421 of Senate File 85, as follows:

1. Page 9, line 1, by striking the word "ten" and inserting in lieu thereof the word "twenty".

H-6330 FILED, UNANIMOUS CONSENT TO CONSIDER, ADOPTED (2033) APRIL 20, 1976 BY NIELSEN of Polk

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H-6331

Amend amendment H-5512, to page 421 of Senate File 85, as follows:

1. Page 9, line 10, by striking the word "ten" and inserting in lieu thereof the word "twenty".

H-6331 FILED, UNANIMOUS CONSENT TO CONSIDER, ADOPTED (2033) APRIL 20, 1976 BY KRAUSE of Palo Alto

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Amend amendment H-5512, to page 421 of Senate File 85, as follows:

1. Page 9, line 7, by striking the word "sections" and inserting in lieu thereof the word "section".

2. Page 9, lines 8 and 9, by striking the words and numerals "and three hundred twenty-six point twenty-four (326.24)".

H-6332 FILED, UNANIMOUS CONSENT TO CONSIDER, ADOPTED (2033) APRIL 20, 1976 BY SCHROEDER of Pottawattamie

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H-6333

Amend H-5665 to Senate File 85 as follows:

1. Page 1, by striking lines 5 and 6 and inserting in lieu thereof the following:

"Sec. ____. Except as otherwise specifically provided, the provisions of this act shall take effect January 1, 1978."

H-6333 FILED, MOVED TO SUSPEND RULES TO CONSIDER, PREVAILED; ADOPTED (2038) APRIL 20, 1976 BY HORN of Linn

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H-6334

Amend Senate File 85 as follows:

1. Page 426, by inserting after line 29, the following:

"Sec. ____. The provisions of this act amending Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred eighty-three (183), shall take effect July 1, 1976."

H-6334 FILED, MOVED TO SUSPEND RULES TO CONSIDER, PREVAILED, ADOPTED (2038) 55-26 APRIL 20, 1976 BY HORN of Linn

H-6335

Amend Senate File 85 as follows:

1. Page 12, by inserting after line 15 the following new section:

"Sec. _____. NEW SECTION. TERMINATION OF LIFE SUPPORT SERVICES. Upon the concurrence of the guardian and family of a comatose hospital patient, should the responsible attending physicians conclude that there is no reasonable possibility of the patient's ever emerging from a present comatose condition to a cognitive, sapient state and that the life-support apparatus now being administered the patient should be discontinued, they shall consult with the hospital "Ethics Committee" or like body of the institution in which the patient is then hospitalized. If that consultative body agrees that there is no reasonable possibility of the patient's ever emerging from a present comatose condition to a cognitive, sapient state, the present life-support system may be withdrawn and said action shall be without any civil or criminal liability therefor, on the part of any participant, whether guardian, physician, hospital or others."

H-6335 FILED, UNANIMOUS BY CONNORS of Polk
TO CONSIDER; ADOPTED (2043)
APRIL 20, 1976

H-6336

Amend amendment H-6094, to page 425 of Senate file 85, as follows:

"Page 1, line 3, by striking the numerals "29" and inserting in lieu thereof the numerals "30".

H-6336 FILED, ADOPTED BY HORN of Linn
BY UNANIMOUS CONSENT (2056)
APRIL 20, 1976

H-6338

Amend amendment H-5971, to page 337 of Senate File 85, as follows:

1. Page 2, by striking lines 21 through 27.

H-6338 FILED, ADOPTED BY BY KOOGLER of Mahaska
UNANIMOUS CONSENT (2042)
APRIL 20, 1976

H-6345

Amend amendment H-5834, to page 61 of Senate File 85, as follows:

1. Page 1, by striking lines 3 through 39 and inserting in lieu thereof the following:

"1. Page 62, by inserting after line 5 the following:

Sec. _____. NEW SECTION. Any person who knowingly sells, gives, delivers, exhibits or displays, to any adult, material depicting sado-masochistic abuse, excretory functions, a sex act involving a minor, or a sex act involving any person and an animal which the average adult taking the material as a whole and applying contemporary community standards 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, shall upon conviction be guilty of a serious misdemeanor."

H-6345 FILED, MOVED TO SUSPEND BY GILLOON of Dubuque
RULES TO CONSIDER, PREVAILED;
ADOPTED 82-7 (p. 2064)
APRIL 21, 1976

H-6348

Amend amendment H-5566, to page 57B of Senate File 85, as follows:

1. Page 1, by striking lines 29 and 30.

H-6348 FILED, RULES BY LIPSKY of Linn
SUSPENDED TO CONSIDER, ADOPTED 68-7 (2045)
APRIL 20, 1976

H-6349

Amend amendment H-5566, to page 57B of Senate File 85, as follows:

1. Page 1, by striking lines 27 and 28.

H-6349 FILED, ADOPTED BY LIPSKY of Linn
BY UNANIMOUS CONSENT (2045)
APRIL 20, 1976

H-6352

Amend H-5736 to page 60 of Senate File 85 as follows:

1. Page 1, by striking lines 8, 9, and 10 and inserting in lieu thereof the following: "commits a simple misdemeanor."

H-6352 FILED, ADOPTED BY HANSEN of O'Brien
BY UNANIMOUS CONSENT (2064)
APRIL 20, 1976

Amend amendment H-6062, to page 221 of Senate File 85, as follows:

1. Page 1, line 11, by striking the words "new offense" and inserting in lieu thereof the words "forcible felony".

2. Page 1, line 12, by striking the word "section" and inserting in lieu thereof the word "division".

3. Page 1, by striking lines 13 through 22 and inserting in lieu thereof the following: "not apply to any inmate who at the time of commission of the forcible felony is on parole under chapter three (3) of this Act, is engaging in a work release program under chapter two hundred forty-seven A (247A) of the Code, or is participating in a furlough program under section two hundred seventeen point fourteen (217.14) of the Code."

4. Page 1, line 24, by striking the words "new offense" and inserting in lieu thereof the words "forcible felony".

H-6354 FILED, UNANIMOUS CONSENT TO CONSIDER, (2071) APRIL 21, 1976 BY KREAMER of Polk

H-6356

Amend Senate File 85 as follows:

1. Page 61, line 9, by striking the word "statute" and inserting in lieu thereof the word "statue".

H-6356 FILED, ADOPTED BY UNANIMOUS CONSENT (2064) APRIL 21, 1976 BY JESSE of Polk

H-6357

Amend amendment H-5463 to page 52 of Senate File 85 as follows:

1. Page 1, line 5, by striking the words "When the Commissioner" and inserting in lieu thereof the words "The issuing officer".

2. Page 1, line 6, by striking the word "constitutes" and inserting in lieu thereof the words "does not constitute".

H-6357 FILED, ADOPTED (2078) BY WYCKOFF of Benton

H-6358

Amend Senate File 85 as follows:

1. Page 214, by striking from lines 24 and 25 the words "in the order presented below".

H-6358 FILED, MOVED TO SUSPEND RULES TO CONSIDER, PREVAILED; ADOPTED (2071) APRIL 21, 1976 BY KREAMER of Polk

H-6359

Amend amendment H-6084, to page 214 of Senate File 85, as follows:

1. Line 15, by striking the numeral and word "34 and" and inserting in lieu thereof the numeral and word "32 through".

H-6359 FILED, ADOPTED BY UNANIMOUS CONSENT (2069) APRIL 21, 1976 BY KREAMER of Polk

H-6363

Amend Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 291, by inserting after line 3 the following sections:

"Sec. ___. Section one hundred twenty-seven point seven (127.7), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.7 LIQUOR SUBJECT TO FORFEITURE. The court, upon conviction, shall enter a judgment of forfeiture of the liquor and vessels seized and shall file with the clerk of the district court a certified transcript of such order.

Sec. ___. Section one hundred twenty-seven point eight (127.8), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.8 DISPOSITION OF FORFEITED LIQUORS. When a judgment has been entered decreeing a forfeiture of any intoxicating liquors, the magistrate shall direct the disposition of such liquors and the vessels containing the same:

1. By ordering that forfeited intoxicating liquors, which have a valid unbroken federal liquor tax stamp properly affixed to the vessel and which the magistrate has no reason to believe is adulterated or contaminated, be delivered to the Iowa beer and liquor control department.

2. By ordering the destruction of forfeited intoxicating liquors which do not have a valid federal liquor tax stamp properly affixed to the vessel or which the magistrate has reason to believe is contaminated or adulterated.

3. By ordering any portion thereof consisting of alcohol, brandies, wine, or whiskey, to be delivered, for medicinal or scientific purposes, to any state or reputable hospital in the county, or in adjoining counties, or to the board of control of state institutions, or to any reputable educational institution in the state for scientific purposes.

Sec. ___. Section one hundred twenty-seven point nine (127.9), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.9 CONVEYANCE SUBJECT TO FORFEITURE. Any conveyance which is used to transport a quantity of unlawful liquor which is large enough to give rise to a presumption that the liquors are being transported for the purpose of sale and the transportation of such liquors is not incidental to the transportation of persons or other property is subject to forfeiture to the state."

2. Page 291, by striking lines 4 through 22, and

inserting in lieu thereof the following:

"Sec. __. Section one hundred twenty-seven point eleven (127.11), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.11 PROCEDURE. Upon the filing of an information the procedure for forfeiting the conveyance shall be as follows:

1. Notice of the time and place of the forfeiture hearing shall be personally served upon all owners and lien holders of record of the seized conveyance at least thirty days prior to the date set for hearing. The notice shall contain a reasonable description of the conveyance and the time and place of its seizure.

2. Any person having a claim to the conveyance may file a claim with the clerk of court alleging his or her claim to the vehicle and the grounds relied upon in claiming that his or her property interest in the conveyance may not be forfeited.

3. The hearing shall be held before the district court in the county in which the conveyance was seized.

4. If a judgment of forfeiture is entered, the judgment shall state the value of the conveyance and the amount forfeited and direct the sheriff to sell the conveyance as chattel under execution, and a certified copy of the judgment shall constitute an execution."

3. Page 291, by inserting after line 22 the following:

"Sec. __. Section one hundred twenty-three point twelve (123.12), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

123.12 BASIS OF FORFEITURE. An order of forfeiture may only be entered upon a finding by the court that all of the following are true:

1. The quantity of liquor transported is large enough to give rise to a presumption that the liquor was being transported for the purpose of sale.

2. The transportation of the liquor was not incidental to the transportation of persons or other property.

3. One of the owners or lien holders knew or consented to the transportation of the liquor.

Sec. __. Section one hundred twenty-three point thirteen (123.13), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

123.13 EFFECT OF FORFEITURE ON OWNERS AND LIEN

H-6363
Page 3

HOLDERS. An order of forfeiture shall only be effective against the property interest of an owner or lien holder who knew or consented to the transportation of the liquor. The property interest of an owner or lien holder who did not consent or know of the transportation of the liquor shall not be affected by the order.

Sec. __. Section one hundred twenty-three point twenty (123.20), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

123.20 SALE OF CONVEYANCE. Prior to placing the conveyance for sale to the general public the sheriff shall permit any owner or lien holder having a property interest of fifty percent or more in the conveyance the opportunity to purchase the property interest forfeited. If such owner or lien holder does not exercise his or her option under this section or if no such owner or lien holder exists the conveyance shall be sold at public auction with the proceeds first being applied to the owners and lien holders who have not had their property interest forfeited and then applied to the expenses of keeping the conveyance and court costs."

H-6363 FILED - Rule suspended BY JESSE of Polk
APRIL 22, 1976 Adopted as amended by 6370 4/22 (2157)

H-6360

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 318, by inserting after line 6 the following new sections:

"Sec._____. Section two hundred four point four hundred one (204.401), Code 1975, is amended by striking subsection three (3) and inserting in lieu thereof the following:

3. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who is convicted of a violation of this subsection shall be punished as follows:

a. If the controlled substance is a controlled substance which is not marijuana, the person shall be guilty of a serious misdemeanor.

b. If the controlled substance is marijuana in an amount in excess of one ounce, the person shall upon conviction be sentenced to six (6) months in a county jail or be fined one thousand (1,000) dollars or be subject to both such fine and punishment.

c. If the controlled substance is marijuana in an amount of one ounce or less, and is for personal use only, the person shall upon conviction be guilty of a simple misdemeanor. All or any part of a sentence imposed pursuant to this paragraph may be suspended and the person placed on probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court. All records pertaining to arrests and prosecutions under this paragraph shall be expunged three years after the date of final judgement. A public agency shall not deny or limit any license or privilege to any person as a result of an arrest or prosecution for a violation of this paragraph.

Sec._____. Chapter seven hundred forty-nine B (749B), Code 1975, is amended by adding the following new section:

NEW SECTION. All other sections of this chapter notwithstanding, information pertaining to arrests and prosecutions under paragraph c of subsection three (3) of section two hundred four point four hundred one (204.401) of the Code, shall not be made available to any other state or the federal

government or any agency thereof, nor shall any other state or the federal government or agency thereof be allowed access to such information."

H-6360 FILED APRIL 22, 1976 Rule suspended Adopted as amended by 6394 4/22(2162)

BY BRUNOW of Appanoose
SCHROEDER of Pottawattamie
HALVORSON of Clayton
AVENSON of Fayette
WELDEN of Hardin
PERKINS of Greene
HUTCHINS of Guthrie
HARGRAVE of Johnson
BINA of Scott

SENATE FILE 85

6364

Amend Senate File 85 as passed, amended, and reprinted by the Senate as follows:

1. Page 1, line 17, by inserting after the word "his" the words "or her".

2. Page 1, line 21, by striking the word "he" and inserting in lieu thereof the words "the person".

3. Page 1, line 22, by striking the word "him" and inserting in lieu thereof the words "the person".

4. Page 1, line 23, by inserting after the word "he" the words "or she".

5. Page 1, line 29, by striking the first word "his" and inserting in lieu thereof the words "the person's" and by inserting after the second word "his" the words "or her".

6. Page 1, line 30, by striking the word "his" and inserting in lieu thereof the words "the person's".

7. Page 1, line 31, by striking the word "his" and inserting in lieu thereof the words "the person's".

8. Page 1, line 32, by striking the word "he" and inserting in lieu thereof the words "the person".

9. Page 2, line 7, by striking the word "he" and inserting in lieu thereof the words "the person".

10. Page 2, line 8, by inserting after the word "his" the words "or her".

11. Page 2, line 10, by striking the word "He" and inserting in lieu thereof the words "The person".

12. Page 2, line 11, by striking the word "him" and inserting in lieu thereof the words "the person".

13. Page 2, line 13, by striking the word "He" and inserting in lieu thereof the words "The person".

14. Page 2, line 15, by striking the word "him" and inserting in lieu thereof the words "the person".

15. Page 2, line 17, by striking the word "He" and inserting in lieu thereof the words "The person".

16. Page 2, line 19, by striking the word "him" and inserting in lieu thereof the words "the person".

17. Page 3, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

18. Page 4, line 32, by inserting after the word "he" the words "or she".

19. Page 5, line 24, by striking the word "he" and inserting in lieu thereof the words "the person".

20. Page 5, line 28, by striking the word "he" and inserting in lieu thereof the words "the person".

21. Page 6, line 13, by striking the word "he" and inserting in lieu thereof the words "the person".

22. Page 7, line 3, by striking the word "he" and inserting in lieu thereof the words "the person".

23. Page 7, line 4, by inserting after the word "himself" the words "or herself".

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24. Page 7, line 7, by striking the word "his" and inserting in lieu thereof the words "the person's".

25. Page 7, line 15, by inserting after the word "his" the words "or her".

26. Page 7, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

27. Page 7, line 17, by striking the word "he" and inserting in lieu thereof the words "the person".

28. Page 8, line 1, by striking the word "He" and inserting in lieu thereof the words "The person".

29. Page 8, line 3, by striking the word "He" and inserting in lieu thereof the words "The person".

30. Page 8, line 6, by striking the first word "He" and inserting in lieu thereof the words "The person" and by striking the second word "he" and inserting in lieu thereof the words "the person".

31. Page 8, line 22, by inserting after the word "his" the words "or her".

32. Page 9, line 8, by inserting after the word "his" the words "or her".

33. Page 9, line 24, by inserting after the word "himself" the words ",or herself".

34. Page 10, line 2, by inserting after the word "himself" the words "or herself".

35. Page 10, line 5, by inserting after the word "himself" the words "or herself" and by inserting after the word "his" the words "or her".

36. Page 10, line 7, by striking the first word "he" and inserting in lieu thereof the words "the person" and by inserting after the second word "he" the words "or she".

37. Page 10, line 9, by striking the word "He" and inserting in lieu thereof the words "The person".

38. Page 10, line 10, by striking the word "he" and inserting in lieu thereof the words "the person".

39. Page 10, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

40. Page 10, line 20, by striking the word "he" and inserting in lieu thereof the words "the correctional officer or peace officer".

41. Page 10, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

42. Page 10, line 35, by inserting after the word "his" the words "or her".

43. Page 11, line 7, by inserting after the word "He" the words "or she".

44. Page 11, line 8, by inserting after the word "He" the words "or she".

45. Page 11, line 10, by inserting after the words "He" the words "or she" and by inserting after the

word "his" the words "or her".

46. Page 11, line 11, by inserting after the word "his" the words "or her".

47. Page 11, line 13, by inserting after the word "His" the words "or her".

48. Page 12, line 5, by striking the word "him" and inserting in lieu thereof the words "the person".

49. Page 12, line 9, by striking the word "his" and inserting in lieu thereof the words "the person's".

50. Page 12, line 13, by striking the word "his" and inserting in lieu thereof the words "the person's".

51. Page 12, line 29, by striking the word "he" and inserting in lieu thereof the words "the person".

52. Page 12, line 30, by inserting after the word "he" the words "or she".

53. Page 12, line 31, by inserting after the word "he" the words "or she".

54. Page 13A, line 1, by striking the word "he" and inserting in lieu thereof the words "the person".

55. Page 13A, line 9, by striking the word "he" and inserting in lieu thereof the words "the person".

56. Page 16, line 1, by striking the word "his" and inserting in lieu thereof the words "the person's", by striking the first word "he" and inserting in lieu thereof the words "the person" and by inserting after the second word "he" the words "or she".

57. Page 16, line 7, by striking the word "his" and inserting in lieu thereof the words "the actor's".

58. Page 16, line 8, by striking the word "him" and inserting in lieu thereof the words "the actor".

59. Page 16, line 12, by striking the word "he" and inserting in lieu thereof the words "the person".

60. Page 17, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

61. Page 17, line 6, by striking the word "he" and inserting in lieu thereof the words "the person".

62. Page 17, line 13, by striking the word "his" and inserting in lieu thereof the words "the other person's".

63. Page 17, line 20, by inserting after the word "his" the words "or her".

64. Page 17, line 23, by inserting after the word "his" the words "or her".

65. Page 17, line 27, by striking the word "he" and inserting in lieu thereof the words "the person".

66. Page 18, line 4, by striking the word "he" and inserting in lieu thereof the words "the person".

67. Page 18, line 11, by striking the word "him" and inserting in lieu thereof the words "the other person".

68. Page 19A, line 1, by striking the word "he" and inserting in lieu thereof the words "the person".
69. Page 19A, line 17, by striking the word "he" and inserting in lieu thereof the words "the person".
70. Page 19A, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".
71. Page 20A, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".
72. Page 21A, line 3, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".
73. Page 21A, line 6, by striking the word "He" and inserting in lieu thereof the words "The person".
74. Page 21A, line 8, by striking the word "He" and inserting in lieu thereof the words "The person".
75. Page 21A, line 19, by inserting after the word "he" the words "or she".
76. Page 21A, line 20, by inserting after the word "he" the words "or she".
77. Page 21A, line 27, by striking the word "him" and inserting in lieu thereof the words "the person".
78. Page 22, line 1, by inserting after the word "he" the words "or she".
79. Page 22, line 2, by striking the word "he".
80. Page 22, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".
81. Page 22, line 6, by striking the word "his" and inserting in lieu thereof the words "the person's".
82. Page 22, line 16, by inserting after the first word "he" the words "or she" and by striking the second word "he" and inserting in lieu thereof the words "the person".
83. Page 22, line 17, by inserting after the word "his" the words "or her".
84. Page 22, line 18, by striking the word "his" and inserting in lieu thereof the words "the person's".
85. Page 22, line 24, by striking the word "he" and inserting in lieu thereof the words "the person".
86. Page 22, line 26, by striking the word "his" and inserting in lieu thereof the words "the person's".
87. Page 22, line 29, by striking the word "him" and inserting in lieu thereof the words "another".
88. Page 23, line 1, by striking the word "he" and inserting in lieu thereof the words "the person".
89. Page 23, line 10, by striking the word "he" and inserting in lieu thereof the words "the person".
90. Page 23, line 11, by striking the word "himself" and inserting in lieu thereof the word ", oneself,".
91. Page 23, line 29, by inserting after the word

"he" the words "or she".

92. Page 23, line 31, by striking the word "he" and inserting in lieu thereof the words "the person".

93. Page 24, line 10, by striking the word "he" and inserting in lieu thereof the words "the defendant".

94. Page 24, line 13, by striking the word "he" and inserting in lieu thereof the words "the defendant" and by inserting after the word "his" the words "or her".

95. Page 24, line 19, by striking the word "he" and inserting in lieu thereof the words "the defendant".

96. Page 24, line 33, by striking the word "he" and inserting in lieu thereof the words "the defendant".

97. Page 25, line 1, by striking the word "he" and inserting in lieu thereof the words "the insurer".

98. Page 26, line 12, by striking the word "his" and inserting in lieu thereof the words "the person's".

99. Page 26, line 18, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

100. Page 26, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

101. Page 27A, line 3, by striking the word "he" and inserting in lieu thereof the words "the person".

102. Page 27A, line 4, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

103. Page 27A, line 9, by inserting after the word "his" the words "or her".

104. Page 27A, line 10, by inserting after the word "him" the words "or her".

105. Page 27A, line 21, by striking the word "his" and inserting in lieu thereof the words "the person's".

106. Page 27A, line 23, by striking the word "he" and inserting in lieu thereof the words "the person".

107. Page 27A, line 25, by striking the word "he" and inserting in lieu thereof the words "the person".

108. Page 27A, line 29, by striking the word "he" and inserting in lieu thereof the words "the person".

109. Page 27B, line 36, by striking the word "he" and inserting in lieu thereof the words "the person".

110. Page 28A, line 1, by striking the word "his" and inserting in lieu thereof the words "the maker's".

111. Page 28A, line 10, by striking the word "he" and inserting in lieu thereof the words "the person".

112. Page 29, line 9, by striking the word "he" and inserting in lieu thereof the words "the person".
113. Page 29, line 10, by inserting after the word "he" the words "or she".
114. Page 29, line 11, by striking the word "he" and inserting in lieu thereof the words "the person".
115. Page 29, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".
116. Page 29, line 19, by striking the word "he" and inserting in lieu thereof the words "the person".
117. Page 29, line 24, by striking the word "he" and inserting in lieu thereof the words "the finder".
118. Page 31A, line 2, by inserting after the word "his" the words "or her".
119. Page 31A, lines 4 and 5, by striking the word "himself" and inserting in lieu thereof the word "oneself".
120. Page 32, line 18, by inserting after the word "he" the words "or she".
121. Page 32, line 27, by inserting after the word "he" the words "or she".
122. Page 32, line 31, by inserting after the word "he" the words "or she".
123. Page 32, line 35, by striking the word "he" and inserting in lieu thereof the words "the other person".
124. Page 33, line 2, by striking the word "he" and inserting in lieu thereof the words "the person".
125. Page 33, line 3, by striking the word "man" and inserting in lieu thereof the words "person".
126. Page 33, line 23, by inserting after the word "he" the words "or she".
127. Page 36, line 27, by striking the word "man" and inserting in lieu thereof the word "person".
128. Page 37, line 6, by inserting after the word "himself" the words "or herself".
129. Page 37, line 20, by striking the word "his" and inserting in lieu thereof the words "the officer's or employee's".
130. Page 37, line 32, by striking the word "him" and inserting in lieu thereof the words "the person".
131. Page 38, line 2, by striking the word "he" and inserting in lieu thereof the words "the person".
132. Page 38, line 3, by inserting after the word "he" the words "or she".
133. Page 38, line 7, by striking the word "him" and inserting in lieu thereof the words "the magistrate or officer".
134. Page 38, line 23, by inserting after the word "himself" the words "or herself".

135. Page 38, line 25, by inserting after the word "himself" the words "or herself" and by striking the word "he" and inserting in lieu thereof the words "the person".

136. Page 38, line 27, by inserting after the word "he" the words "or she".

137. Page 38, line 32, by striking the word "he" and inserting in lieu thereof the words "the person".

138. Page 38, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

139. Page 39, line 3, by striking the word "he" and inserting in lieu thereof the words "the person".

140. Page 39, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

141. Page 39, line 10, by inserting after the word "himself" the words "or herself" and by striking the word "he" and inserting in lieu thereof the words "the person".

142. Page 39, line 21, by striking the word "he" and inserting in lieu thereof the words "the person".

143. Page 40, line 29, by striking the word "he" and inserting in lieu thereof the words "the person".

144. Page 40, line 32, by striking the word "he" and inserting in lieu thereof the words "the person".

145. Page 41, line 7, by striking the word "he" and inserting in lieu thereof the words "the person".

146. Page 41, line 12, by inserting after the word "he" the words "or she".

147. Page 41, line 18, by inserting after the word "his" the words "or her".

148. Page 41, line 25, by striking the word "he" and inserting in lieu thereof the words "the person".

149. Page 41, line 30, by striking the word "him" and inserting in lieu thereof the words "the other person".

150. Page 41, line 33, by striking the word "he" and inserting in lieu thereof the words "the person".

151. Page 42, line 4, by inserting after the word "his" the words "or her".

152. Page 42, line 21, by inserting after the word "him" the words "or her".

153. Page 42, line 24, by inserting after the word "him" the words "or her".

154. Page 42, line 26, by inserting after the word "him" the words "or her".

155. Page 42, line 27, by inserting after the word "his" the words "or her".

156. Page 42, line 28, by inserting after the word "he" the words "or she".

157. Page 42, line 30, by inserting after the

word "his" the words "or her".
158. Page 42, line 31, by inserting after the word "him" the words "or her".
159. Page 43, line 2, by inserting after the word "him" the words "or her".
160. Page 43, line 10, by inserting after the word "his" the words "or her".
161. Page 44, line 3, by inserting after the word "his" the words "or her".
162. Page 44, line 14, by striking the word "he" and inserting in lieu thereof the words "the person".
163. Page 44, line 18, by striking the word "he" and inserting in lieu thereof the words "the person".
164. Page 44, line 25, by striking the word "his" and inserting in lieu thereof the words "the elector's".
165. Page 44, line 34, by inserting after the word "his" the words "or her".
166. Page 45A, line 6, by inserting before the word "not" the words "or herself".
167. Page 45A, line 12, by inserting after the first word "his" the words "or her" and by striking the second word "his" and inserting in lieu thereof the words "the voters".
168. Page 46, line 5, by inserting after the word "his" the words "or her".
169. Page 47, line 2, by striking the word "he" and inserting in lieu thereof the words "the person".
170. Page 47, line 12, by striking the word "he" and inserting in lieu thereof the words "the person".
171. Page 47, line 14, by striking the word "he" and inserting in lieu thereof the words "the person".
172. Page 47, line 32, by striking the word "he" and inserting in lieu thereof the words "the person".
173. Page 48, line 29, by inserting after the word "his" the words "or her".
174. Page 49, line 20, by inserting after the word "his" the words "or her".
175. Page 49, line 21, by striking the word "him" and inserting in lieu thereof the words "the person".
176. Page 49, line 22, by inserting after the word "his" the words "or her" and by striking the word "him" and inserting in lieu thereof the words "the person".
177. Page 49, line 27, by inserting after the word "his" the words "or her".
178. Page 50, line 4, by inserting after the word "he" the words "or she".
179. Page 50, line 8, by inserting after the word "his" the words "or her".

180. Page 50, line 10, by striking the word "him" and inserting in lieu thereof the words "the person".

181. Page 50, line 12, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

182. Page 50, line 14, by striking the word "his" and inserting in lieu thereof the words "the person's".

183. Page 50, line 17, by inserting after the word "his" the words "or her".

184. Page 50, line 21, by striking the word "his" and inserting in lieu thereof the words "the person's".

185. Page 50, line 25, by inserting after the word "his" the words "or she".

186. Page 50, line 28, by inserting after the word "his" the words "or she".

187. Page 50, line 34, by inserting after the word "his" the words "or her".

188. Page 51-, line 2, by inserting after the word "his" the words "or her".

189. Page 51A, line 29, by inserting after the word "he" the words "or she".

190. Page 51B, line 38, by striking the word "He" and inserting in lieu thereof the words "The person".

191. Page 52, line 1, by striking the word "He" and inserting in lieu thereof the words "The person".

192. Page 52, line 2, by striking the word "He" and inserting in lieu thereof the words "The person".

193. Page 52, line 4, by striking the word "He" and inserting in lieu thereof the words "The person".

194. Page 52, line 6, by striking the word "he" and inserting in lieu thereof the words "the person".

195. Page 52, line 12, by striking the word "he" and inserting in lieu thereof the words "the person".

196. Page 53, line 18, by striking the word "he" and inserting in lieu thereof the words "the person".

197. Page 53, line 26, by inserting after the word "his" the words "or her".

198. Page 53, line 27, by inserting after the word "his" the words "or her".

199. Page 53, line 35, by striking the word "he" and inserting in lieu thereof the words "the officer".

200. Page 54, line 4, by striking the word "he" and inserting in lieu thereof the words "the officer".

201. Page 54, line 5, by striking the word "he" and inserting in lieu thereof the words "the officer".

202. Page 56, line 7, by inserting after the word "his" the words "or her".

203. Page 56, line 17, by striking the word "he" and inserting in lieu thereof the words "the person".

204. Page 56, line 19, by striking the word "He" and inserting in lieu thereof the words "The person".

205. Page 56, line 21, by striking the first word "He" and inserting in lieu thereof the words "The person" and by inserting after the second word "he" the words "or she".

206. Page 56, line 23, by striking the word "he" and inserting in lieu thereof the words "the person".

207. Page 56, line 28, by inserting after the word "he" the words "or she".

208. Page 57A, line 1, by inserting after the word "himself" the words "or herself".

209. Page 57A, line 4, by inserting after the word "himself" the words "or herself".

210. Page 57A, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

211. Page 57A, line 8, by inserting after the word "his" the words "or her".

212. Page 57A, line 13, by inserting after the word "him" the words "or her".

213. Page 57A, line 14, by inserting after the word "him" the words "or her".

214. Page 57A, line 21, by striking the word "he" and inserting in lieu thereof the words "the person".

215. Page 57A, line 23, by striking the word "He" and inserting in lieu thereof the words "The person".

216. Page 57A, line 30, by striking the word "He" and inserting in lieu thereof the words "The person" and by inserting after the word "himself" the words "or herself".

217. Page 58, line 3, by striking the word "he" and inserting in lieu thereof the words "the person".

218. Page 59, line 19, by striking the word "his" and inserting in lieu thereof the words "the person's".

219. Page 59, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

220. Page 62, line 10, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the county attorney".

221. Page 62, line 27, by striking the word "his" and inserting in lieu thereof the words "the person's".

222. Page 62, line 28, by striking the word "him" and inserting in lieu thereof the words "the person".

223. Page 65, line 1, by inserting after the word "his" the words "or her".

224. Page 66A, line 3, by inserting after the word "he" the words "or she".

225. Page 66B, line 37, by inserting after the

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word "himself" the words "or herself".
226. Page 66B, line 43, by inserting after the word "his" the words "or her".
227. Page 67, line 28, by striking the word "he" and inserting in lieu thereof the words "the person".
228. Page 67, line 29, by striking the word "his" and inserting in lieu thereof the words "the person's".
229. Page 68, line 20, by striking the word "he" and inserting in lieu thereof the words "the defendant".
230. Page 69, line 31, by inserting after the word "his" the words "or her".
231. Page 70, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".
232. Page 70, line 13, by striking the word "he" and inserting in lieu thereof the words "the magistrate".
233. Page 70, line 22, by striking the word "his" and inserting in lieu thereof the words "the magistrates".
234. Page 70, line 34, by inserting after the word "his" the words "or her".
235. Page 71, line 8, by striking the word "him" and inserting in lieu thereof the words "the peace officer".
236. Page 71, line 9, by striking the word "his" and inserting in lieu thereof the words "the peace officer's".
237. Page 71, line 12, by striking the word "he" and inserting in lieu thereof the words "the peace officer".
238. Page 71, line 14, by striking the word "he" and inserting in lieu thereof the words "the peace officer".
239. Page 71, line 18, by striking the word "he" and inserting in lieu thereof the words "the peace officer".
240. Page 71, line 22, by striking the word "him" and inserting in lieu thereof the words "the peace officer".
241. Page 71, line 33, by striking the word "his" and inserting in lieu thereof the words "the person's".
242. Page 71, line 35, by striking the word "he" and inserting in lieu thereof the words "the person".
243. Page 72, line 5, by striking the word "he" and inserting in lieu thereof the words "the peace officer".
244. Page 72, line 7, by striking the words "himself or another" and inserting in lieu thereof the words "any person".

245. Page 72, line 8, by striking the word "he" and inserting in lieu thereof the words "the peace officer".

246. Page 72, line 9, by inserting after the word "he" the words "or she".

247. Page 72, line 10, by striking the words "himself or another" and inserting in lieu thereof the words "any person".

248. Page 72, line 11, by striking the word "he" and inserting in lieu thereof the words "the peace officer".

249. Page 72, line 17, by striking the word "his" and inserting in lieu thereof the words "the person's".

250. Page 72, line 20, by striking the word "he" and inserting in lieu thereof the words "the peace officer".

251. Page 72, line 21, by striking the word "he" and inserting in lieu thereof the words "the peace officer".

252. Page 72, line 26, by striking the word "he" and inserting in lieu thereof the words "the person".

253. Page 72, line 27, by striking the word "he" and inserting in lieu thereof the words "the person".

254. Page 72, line 29, by inserting after the word "he" the words "or she".

255. Page 72, line 30, by inserting after the word "he" the words "or she".

256. Page 72, line 31, by striking the words "himself or another" and inserting in lieu thereof the words "any person".

257. Page 72, line 34, by striking the word "himself".

258. Page 73, line 2, by striking the word "he" and inserting in lieu thereof the words "the person".

259. Page 73, line 6, by inserting after the word "himself" the word ", herself," and by striking the word "he" and inserting in lieu thereof the words "the person".

260. Page 73, line 9, by striking the word "he" and inserting in lieu thereof the words "the person".

261. Page 73, line 13, by inserting after the word "his" the words "or her".

262. Page 73, line 15, by inserting after the first word "he" the words "or she" and by inserting after the second word "he" the words "or she".

263. Page 73, line 19, by inserting after the word "him" the words "or her".

264. Page 73, line 20, by striking the word "his" and inserting in lieu thereof the words "the person's"

and by inserting after the word "he" the words "or she".

265. Page 73, line 21, by inserting after the word "him" the words "or her" and by striking the word "his" and inserting in lieu thereof the words "the person's".

266. Page 73, line 26, by inserting after the word "his" the words "or her".

267. Page 73, line 27, by striking the word "he" and inserting in lieu thereof the words "the officer".

268. Page 73, line 29, by inserting after the word "his" the words "or her".

269. Page 73, line 30, by striking the word "he" and inserting in lieu thereof the words "the officer".

270. Page 73, line 34, by striking the word "he" and inserting in lieu thereof the words "the officer".

271. Page 73, line 35, by striking the word "he" and inserting in lieu thereof the words "the officer".

272. Page 74, line 1, by inserting after the word "himself" the words "or herself" and by inserting after the word "he" the words "or she".

273. Page 74, line 10, by striking the word "he" and inserting in lieu thereof the words "the officer".

274. Page 74, line 25, by striking the word "he" and inserting in lieu thereof the words "the officer" and by inserting after the word "him" the words "or her".

275. Page 74, line 27, by striking the word "He" and inserting in lieu thereof the words "Any person".

276. Page 74, line 29, by striking the word "he" and inserting in lieu thereof the words "the arrested person" and by inserting after the word "his" the words "or her".

277. Page 75, line 18, by striking the word "his" and inserting in lieu thereof the words "the officer's".

278. Page 75, line 19, by striking the word "him" and inserting in lieu thereof the words "the officer" and by inserting after the word "his" the words "or her".

279. Page 75, line 23, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

280. Page 75, line 26, by inserting after the word "his" the words "or her".

281. Page 75, line 33, by inserting after the word "his" the words "or her".

282. Page 76, line 7, by striking the word "his" and inserting in lieu thereof the words "the complainant's".

283. Page 76, line 10, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the magistrate".

284. Page 76, line 13, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

285. Page 76, line 18, by inserting after the word "his" the words "or her".

286. Page 76, line 22, by striking the word "him" and inserting in lieu thereof the words "the arrested person".

287. Page 76, line 23, by striking the word "him" and inserting in lieu thereof the words "the arrested person".

288. Page 77, line 3, by inserting after the word "he" the words "or she" and by striking the word "him" and inserting in lieu thereof the words "the officer".

289. Page 77, line 7, by inserting after the word "his" the words "or her".

290. Page 77, line 8, by inserting after the word "his" the words "or her".

291. Page 77, line 19, by striking the word "his" and inserting in lieu thereof the words "the sheriff's".

292. Page 77, line 20, by inserting after the word "him" the words "or her".

293. Page 78, line 18, by striking the word "he" and inserting in lieu thereof the words "the officer".

294. Page 78, line 24, by inserting after the word "he" the words "or she".

295. Page 79, line 8, by striking the word "him" and inserting in lieu thereof the words "the person" and by striking the word "he" and inserting in lieu thereof the words "the person".

296. Page 79, line 13, by striking the word "he" and inserting in lieu thereof the words "the person".

297. Page 79, line 18, by striking the word "he" and inserting in lieu thereof the words "the officer".

298. Page 79, line 22, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

299. Page 79, line 25, by striking the word "him" and inserting in lieu thereof the words "the person".

300. Page 79, line 26, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

301. Page 80, line 18, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

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302. Page 80, line 19, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

303. Page 81, line 8, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

304. Page 81, line 22, by inserting after the word "him" the words "or her" and by inserting after the word "his" the words "or her".

305. Page 83, line 5, by inserting after the word "him" the words "or her".

306. Page 83, line 28, by striking the word "his" and inserting in lieu thereof the words "the person's".

307. Page 84, line 2, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

308. Page 84, line 4, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

309. Page 84, line 5, by inserting after the word "his" the words "or her".

310. Page 84, line 9, by striking the word "his" and inserting in lieu thereof the words "or her".

311. Page 84, line 14, by striking the word "him" and inserting in lieu thereof the words "the magistrate" and by inserting after the word "his" the words "or her".

312. Page 84, line 15, by striking the word "him" and inserting in lieu thereof the words "the person".

313. Page 84, line 18, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

314. Page 84, line 26, by striking the word "he" and inserting in lieu thereof the words "the authorized person".

315. Page 85, line 2, by striking the word "his" and inserting in lieu thereof the words "the officer's".

316. Page 85, line 4, by striking the word "his" and inserting in lieu thereof the words "the officer's".

317. Page 85, line 8, by striking the word "his" and inserting in lieu thereof the words "the officer's".

318. Page 85, line 9, by striking the word "him" and inserting in lieu thereof the words "the officer".

319. Page 85, line 15, by inserting after the word "himself" the words "or herself".

320. Page 85, line 28, by inserting after the word "his" the words "or her".

321. Page 85, line 30, by striking the word "his" and inserting in lieu thereof the words "the officer's".

322. Page 86, line 9, by inserting after the word "his" the words "or her".

323. Page 86, line 25, by striking the word "he" and inserting in lieu thereof the words "the inspector".

324. Page 88, line 34, by striking the word "him" and inserting in lieu thereof the words "the person".

325. Page 89, lines 4 and 5, by striking the words "delivery of a copy to him personally" and inserting in lieu thereof the words "personal service".

326. Page 89, line 21, by inserting after the word "his" the words "or her".

327. Page 89, line 27, by striking the word "his" and inserting in lieu thereof the words "the person's".

328. Page 89, line 28, by inserting after the word "he" the words "or she".

329. Page 90, line 7, by striking the word "he" and inserting in lieu thereof the words "the person".

330. Page 91, line 10, by inserting after the word "his" the words "or her".

331. Page 91, line 19, by striking the word "him" and inserting in lieu thereof the words "the defendant".

332. Page 92, line 2, by inserting after the word "his" the words "or her".

333. Page 92, line 12, by inserting after the word "his" the words "or her".

334. Page 92, line 13, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

335. Page 92, line 14, by inserting after the word "his" the words "the defendant's".

336. Page 92, line 18, by striking the word "he" and inserting in lieu thereof the words "the defendant".

337. Page 92, line 20, by inserting after the word "he" the words "or she".

338. Page 92, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

339. Page 93, line 5, by inserting after the word "his" the words "or her" and by striking the word "him" and inserting in lieu thereof the words "the defendant".

340. Page 93, line 6, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

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341. Page 93, line 10, by inserting after the word "his" the words "or her".

342. Page 93, line 13, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

343. Page 93, line 18, by striking the word "him" and inserting in lieu thereof the words "the defendant".

344. Page 93, line 19, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

345. Page 93, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

346. Page 94, line 13, by striking the word "his" and inserting in lieu thereof the words "the person's" and by inserting after the word "he" the words "or she".

347. Page 94, line 18, by striking the word "he" and inserting in lieu thereof the words "the defendant".

348. Page 94, line 20, by striking the word "he" and inserting in lieu thereof the words "the person".

349. Page 94, line 26, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

350. Page 96, line 11, by striking the word "he" and inserting in lieu thereof the words "the defendant".

351. Page 96, line 16, by inserting after the word "himself" the words "or herself".

352. Page 96, line 21, by striking the word "he" and inserting in lieu thereof the words "the defendant".

353. Page 96, line 29, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

354. Page 96, line 30, by inserting after the word "his" the words "or her".

355. Page 96, line 31, by inserting after the word "himself" the words "or herself".

356. Page 96, line 33, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

357. Page 97, line 3, by inserting after the word "his" the words "or her".

358. Page 97, line 11, by striking the word "he" and inserting in lieu thereof the words "the clerk".

359. Page 97, line 12, by inserting after the word "his" the words "or her".

360. Page 97, line 16, by inserting after the word "himself" the words "or herself".

361. Page 97, line 17, by inserting after the word "his" the words "or her".

362. Page 97, line 18, by striking the word "him" and inserting in lieu thereof the words "the defendant".

363. Page 97, line 20, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

364. Page 97, line 25, by striking the word "he" and inserting in lieu thereof the words "the defendant".

365. Page 98, line 11, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

366. Page 98, line 13, by inserting after the word "himself" the words "or herself".

367. Page 99, line 7, by striking the word "his" and inserting in lieu thereof the words "the person's".

368. Page 99, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

369. Page 100, line 3, by inserting after the word "he" the words "or she".

370. Page 100, line 5, by inserting after the word "his" the words "or her".

371. Page 100, line 32, by inserting after the word "his" the words "or her".

372. Page 102, line 12, by striking the word "he" and inserting in lieu thereof the words "the person".

373. Page 102, line 31, by striking the word "him" and inserting in lieu thereof the words "the defendant" and by inserting after the word "his" the words "or her".

374. Page 103, line 4, by striking the first word "his" and inserting in lieu thereof the words "the accused's" and by inserting after the second word "his" the words "or her".

375. Page 103, line 6, by inserting after the word "him" the words "or her".

376. Page 103, line 16, by striking the word "he" and inserting in lieu thereof the words "the accused" and by inserting after the word "his" the words "or her".

377. Page 103, line 19, by striking the word "him" and inserting in lieu thereof the words "the accused" and by inserting after the word "he" the words "or she".

378. Page 103, line 21, by striking the word "him" and inserting in lieu thereof the words "the accused".

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379. Page 103, line 23, by striking the word "he" and inserting in lieu thereof the words "the accused".

380. Page 103, line 25, by striking the word "him" and inserting in lieu thereof the words "the accused".

381. Page 103, line 26, by inserting after the word "his" the words "or her".

382. Page 104, line 22, by striking the word "His" and inserting in lieu thereof the words "The magistrate's".

383. Page 104, line 25, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

384. Page 104, line 26, by striking the word "him" and inserting in lieu thereof the words "the defendant".

385. Page 104, line 27, by striking the first word "his" and inserting in lieu thereof the words "the defendant's" and by striking the second word "his" and inserting in lieu thereof the words "the defendant's".

386. Page 104, line 28, by striking the word "he" and inserting in lieu thereof the words "the defendant".

387. Page 104, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

388. Page 104, line 30, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

389. Page 104, line 31, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

390. Page 104, line 32, by inserting after the word "he" the words "or she".

391. Page 104, line 33, by striking the first word "him" and inserting in lieu thereof the words "the defendant" and by inserting after the second word "him" the words "or her".

392. Page 105, line 13, by inserting after the word "he" the words "or she".

393. Page 105, line 14, by striking the word "he" and inserting in lieu thereof the words "the defendant".

394. Page 105, line 15, by striking the word "him" and inserting in lieu thereof the words "the defendant" and by inserting after the word "he" the words "or she".

395. Page 105, line 17, by striking the word "him" and inserting in lieu thereof the words "the defendant".

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396. Page 105, line 22, by inserting after the word "he" the words "or she".

397. Page 105, line 30, by striking the word "him" and inserting in lieu thereof the words "the defendant".

398. Page 106, line 4, by inserting after the word "him" the words "or her".

399. Page 106, line 5, by inserting after the word "his" the words "or her".

400. Page 106, line 12, by striking the word "his" and inserting in lieu thereof the words "the magistrate's".

401. Page 106, line 14, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

402. Page 106, line 35, by inserting after the word "his" the words "or her".

403. Page 107, line 2, by inserting after the word "his" the words "or her".

404. Page 107, line 5, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

405. Page 107, line 10, by inserting after the word "he" the words "or she".

406. Page 108, line 23, by striking the word "He" and inserting in lieu thereof the words "The juror".

407. Page 108, line 28, by striking the word "He" and inserting in lieu thereof the words "The juror".

408. Page 108, line 30, by striking the word "He" and inserting in lieu thereof the words "The juror".

409. Page 108, line 32, by striking the word "He" and inserting in lieu thereof the words "The juror".

410. Page 109A, line 2, by striking the word "He" and inserting lieu thereof the words "The juror".

411. Page 109A, line 3, by striking the word "He" and inserting in lieu thereof the words "The juror".

412. Page 109A, line 4, by striking the word "him" and inserting in lieu thereof the words "the juror".

413. Page 109A, line 26, by striking the word "him" and inserting in lieu thereof the words "the sheriff".

414. Page 111, line 16, by inserting after the word "his" the words "or her".

415. Page 112A, line 6, by inserting after the word "him" the words "or her".

416. Page 112A, line 10, by striking the word "he" and inserting in lieu thereof the words "the witness".

417. Page 112A, line 11, by striking the word "he" and inserting in lieu thereof the words "the

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judge".

418. Page 112A, line 12, by inserting after the word "he" the words "or she" and by inserting after the word "his" the words "or her".

419. Page 112A, line 13, by striking the word "him" and inserting in lieu thereof the words "the witness".

420. Page 114, line 12, by inserting after the word "his" the words "or her".

421. Page 114, line 14, by inserting after the word "his" the words "or her".

422. Page 114, line 27, by striking the word "he" and inserting in lieu thereof the words "the accused".

423. Page 115, line 18, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

424. Page 115, line 23, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

425. Page 116, line 6, by inserting after the word "his" the words "or her".

426. Page 116, line 10, by striking the word "he" and inserting in lieu thereof the words "the prosecuting attorney".

427. Page 120, line 22, by striking the word "he" and inserting in lieu thereof the words "the defendant".

428. Page 120, line 23, by inserting after the word "his" the words "or her".

429. Page 120, line 24, by inserting after the first word "he" the words "or she" and by inserting after the second word "he" the words "or she".

430. Page 120, line 25, by striking the word "him" and inserting in lieu thereof the words "the defendant".

431. Page 120, line 26, by striking the word "him" and inserting in lieu thereof the words "the defendant".

432. Page 120, line 30, by striking the word "him" and inserting in lieu thereof the words "the defendant".

433. Page 120, line 31, by striking the word "him" and inserting in lieu thereof the words "the defendant".

434. Page 120, line 33, by inserting after the word "he" the words "or she".

435. Page 120, line 35, by inserting after the first word "he" the words "or she", by inserting after the word "his" the words "or her", and by inserting after the second word "he" the words "or she".

436. Page 121, line 1, by inserting after the word "his" the words "or her".

437. Page 121, line 2, by striking the word "him" and inserting in lieu thereof the words "the defendant".

438. Page 121, line 3, by inserting after the first word "he" the words "or she" and by striking the second word "he" and inserting in lieu thereof the words "the defendant".

439. Page 121, line 4, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the defendant".

440. Page 121, line 6, by striking the word "he" and inserting in lieu thereof the words "the defendant".

441. Page 121, line 7, by inserting after the word "his" the words "or her".

442. Page 121, line 9, by striking the word "him" and inserting in lieu thereof the words "the defendant".

443. Page 121, line 34, by striking the word "he" and inserting in lieu thereof the words "the defendant".

444. Page 122, line 2, by inserting after the word "him" the words "or her".

445. Page 123, line 4, by inserting after the word "his" the words "or her".

446. Page 123, line 5, by inserting after the word "he" the words "or she" and by inserting after the word "his" the words "or her".

447. Page 124, line 18, by inserting after the word "his" the words "or her".

448. Page 124, line 28, by striking the word "his" and inserting in lieu thereof the words "the county attorney's".

449. Page 126, line 7, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

450. Page 127A, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

451. Page 128, line 8, by striking the word "he" and inserting in lieu thereof the words "the defendant".

452. Page 128, line 18, by striking the word "he" and inserting in lieu thereof the words "the defendant".

453. Page 131, line 8, by striking the word "him" and inserting in lieu thereof the words "the

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defendant".

454. Page 131, line 30, by inserting after the word "his" the words "or her".

455. Page 131, line 34, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

456. Page 132, line 8, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

457. Page 132, line 12, by striking the word "him" and inserting in lieu thereof the words "the other party".

458. Page 132, line 23, by inserting after the word "his" the words "or her".

459. Page 132, line 31, by inserting after the word "his" the words "or her".

460. Page 132, line 33, by inserting after the word "his" the words "or her".

461. Page 133, line 6, by striking the word "him" and inserting in lieu thereof the words "the prosecuting attorney".

462. Page 134, line 2, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

463. Page 134, line 14, by inserting after the word "his" the words "or her".

464. Page 135A, line 10, by inserting after the word "his" the words "or her".

465. Page 136, line 25, by striking the word "him" and inserting in lieu thereof the words "the witness".

466. Page 136, line 30, by inserting after the word "he" the words "or she".

467. Page 136, line 31, by striking the word "he" and inserting in lieu thereof the words "the juror".

468. Page 136, line 33, by striking the word "he" and inserting in lieu thereof the words "the juror".

469. Page 136, line 34, by inserting after the word "his" the words "or her".

470. Page 137, line 2, by inserting after the word "him" the words "or her".

471. Page 137, line 4, by inserting after the word "him" the words "or her".

472. Page 137, line 6, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

473. Page 137, line 11, by inserting after the word "him" the words "or her".

474. Page 137, line 12, by striking the word "his" and inserting in lieu thereof the words "witnesses".

475. Page 137, line 13, by inserting after the

word "he" the words "or she".

476. Page 137, line 19, by inserting after the word "his" the words "or her".

477. Page 137, line 24, by inserting after the word "him" the words "or her" and by inserting after the word "himself" the words "or herself".

478. Page 137, line 27, by inserting after the word "his" the words "or her".

479. Page 138, line 31, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

480. Page 139, line 35, by striking the word "him" and inserting in lieu thereof the words "the juror".

481. Page 140, line 12, by inserting after the word "his" the words "or her".

482. Page 140, line 15, by striking the word "him" and inserting in lieu thereof the words "the defendant".

483. Page 140, line 27, by striking the word "him" and inserting in lieu thereof the words "the juror".

484. Page 140, line 30, by striking the word "his" and inserting in lieu thereof the words "the juror"

485. Page 140, line 32, by striking the word "he" and inserting in lieu thereof the words "the juror".

486. Page 140, line 35, by striking the word "he" and inserting in lieu thereof the words "the juror".

487. Page 141, line 4, by striking the word "he" and inserting in lieu thereof the words "the juror".

488. Page 141, line 7, by inserting after the word "his" the words "or her".

489. Page 141, line 10, by striking the word "he" and inserting in lieu thereof the words "the juror".

490. Page 141, line 13, by striking the word "his" and inserting in lieu thereof the words "the juror's".

491. Page 141, line 14, by inserting after the word "him" the words "or her".

492. Page 143, line 29, by inserting after the word "he" the words "or she".

493. Page 143, line 32, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the attorney for the defendant".

494. Page 143, line 33, by striking the word "he" and inserting in lieu thereof the words "the attorney for the defendant".

495. Page 144, line 3, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

496. Page 144, line 4, by striking the first word "his" and by inserting after the second word "his"

the words "or her".
497. Page 144, line 13; by striking the word "his" and inserting in lieu thereof the words "the defendant's".
498. Page 144, line 14, by striking the word "him" and inserting in lieu thereof the words "the defendant".
499. Page 144, line 28, by striking the word "his" and inserting in lieu thereof the words "the witness'".
500. Page 144, line 31, by inserting after the word "he" the words "or she".
501. Page 144, line 32, by inserting after the word "he" the words "or she".
502. Page 145, line 2, by inserting after the word "he" the words "or she".
503. Page 145, line 3, by striking the word "he" and inserting in lieu thereof the words "the prosecutor".
504. Page 145, line 4, by striking the word "he" and inserting in lieu thereof the words "the prosecutor".
505. Page 145, line 14, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
506. Page 145, line 16, by inserting after the word "his" the words "or her".
507. Page 146, line 6, by inserting after the first word "he" the words "or she" and by striking the second word "he" and inserting in lieu thereof the words "the juror".
508. Page 148, line 3, by inserting after the word "himself" the words "or herself".
509. Page 148, line 33, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the defendant".
510. Page 148, line 35, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
511. Page 149, line 8, by striking the word "he" and inserting in lieu thereof the words "the judge".
512. Page 149, line 15, by inserting after the word "he" the words "or she" and by inserting after the word "himself" the words "or herself".
513. Page 149, line 23, by inserting after the first word "he" the words "or she" and by inserting after the second word "he" the words "or she".
514. Page 149, line 24, by inserting after the word "he" the words "or she".
515. Page 149, line 25, by inserting after the

word "his" the words "or her".
516. Page 150, line 5, by inserting after the word "his" the words "or her".
517. Page 150, line 17, by striking the word "he" and inserting in lieu thereof the words "the offender".
518. Page 150, line 18, by inserting after the word "he" the words "or she".
519. Page 150, line 19, by inserting after the word "he" the words "or she".
520. Page 150, line 20, by striking the first word "he" and inserting in lieu thereof the words "the offender" and by inserting after the second word "he" the words "or her".
521. Page 150, line 31, by striking the word "he" and inserting in lieu thereof the words "the offender".
522. Page 150, line 32, by inserting after the first word "he" the words "or she" and by striking the second word "he" and inserting in lieu thereof the words "the offender".
523. Page 151, line 5, by inserting after the word "his" the words "or her".
524. Page 151, line 6, by striking the word "he" and inserting in lieu thereof the words "the defendant".
525. Page 151, line 7, by inserting after the word "himself" the words "or herself" and by striking the word "he" and by inserting in lieu thereof the words "the defendant".
526. Page 151, line 19, by inserting after the first word "him" the words "or her", by inserting after the second word "him" the word "or her", and by inserting after the word "his" the words "or her".
527. Page 151, line 31, by inserting after the word "him" the words "or her".
528. Page 152, line 10, by striking the word "he" and inserting in lieu thereof the words "the witness".
529. Page 152, line 14, by striking the word "him" and inserting in lieu thereof the words "the witness".
530. Page 152, line 15, by striking the word "him" and inserting in lieu thereof the words "the witness".
531. Page 155, line 16, by striking the word "he" and inserting in lieu thereof the words "the defendant".
532. Page 155, line 31, by inserting after the word "his" the words "or her".
533. Page 156, line 16, by striking the word "he" and inserting in lieu thereof the words "the defendant".
534. Page 156, line 20, by striking the word "him" and inserting in lieu thereof the words "the

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defendant".

535. Page 156, line 23, by striking the word "him" and inserting in lieu thereof the words "the defendant".

536. Page 156, line 25, by inserting after the word "he" the words "or she".

537. Page 156, line 30, by striking the word "he" and inserting in lieu thereof the words "the defendant".

538. Page 156, line 34, by striking the word "he" and inserting in lieu thereof the words "the defendant".

539. Page 157, line 14, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

540. Page 157, line 19, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

541. Page 157, line 22, by striking the word "him" and inserting inlieu thereof the words "the defendant".

542. Page 157, line 23, by striking the word "him" and inserting in lieu thereof the words "the defendant".

543. Page 157, line 27, by inserting after the word "he" the words "or she".

544. Page 157, line 28, by inserting after the word "his" the words "or her".

545. Page 157, line 30, by inserting after the word "he" the words "or she".

546. Page 157, line 32, by striking the word "He" and inserting in lieu thereof the words "The defendant".

547. Page 157, line 33, by inserting after the word "he" the words "or she".

548. Page 158, line 1, by striking the word "he" and inserting in lieu thereof the words "the defendant".

549. Page 158, line 2, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

550. Page 158, line 3, by striking the word "he" and inserting in lieu thereof the words "the defendant".

551. Page 158, line 15, by inserting after the word "his" the words "or her".

552. Page 159, line 34, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the defendant".

553. Page 161, line 8, by inserting after the

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word "he" the words "or she".

554. Page 161, line 13; by striking the word "him" and inserting in lieu thereof the words "the defendant".

555. Page 161, line 19, by striking the word "he" and inserting in lieu thereof the words "the defendant".

556. Page 161, line 20, by inserting after the word "his" the words "or her".

557. Page 162, line 8, by striking the word "he" and inserting in lieu thereof the words "the defendant".

558. Page 162, line 9, by inserting after the word "his" the words "or her".

559. Page 163, line 16, by inserting after the word "his" the words "or her".

560. Page 163, line 17, by striking the word "he" and inserting in lieu thereof the words "the sheriff".

561. Page 163, line 18, by striking the word "his" and inserting in lieu thereof the words "the sheriff's".

562. Page 164, line 4, by striking the word "him" and inserting in lieu thereof the words "the sheriff" and by inserting after the word "he" the words "or she".

563. Page 164, line 5, by striking the word "his" and inserting in lieu thereof the words "the sheriff's".

564. Page 164, line 12, by inserting after the word "he" the words "or she".

565. Page 164, line 33, by striking the word "he" and inserting in lieu thereof the words "the defendant".

566. Page 165A, line 2, by inserting after the word "himself" the words "or herself".

567. Page 165A, line 4, by striking the word "his" and inserting in lieu thereof the words "the defendant".

568. Page 165A, line 22, by striking the word "him" and inserting in lieu thereof the words "the defendant" and by inserting after the word "he" the words "or she".

569. Page 165A, line 23, by inserting after the word "himself" the words "or herself".

570. Page 165A, line 24, by striking the first word "him" and inserting in lieu thereof the words "the defendant" and by striking the second word "him" and inserting in lieu thereof the words "the defendant".

571. Page 165A, line 26, by inserting after the

word "his" the words "or her".
572. Page 165B, line 40, by inserting after the word "him" the words "or her" and by striking the word "his" and inserting in lieu thereof the words "the defendant's".
573. Page 166A, line 2, by striking the word "he" and inserting in lieu thereof the words "the defendant".
574. Page 166A, line 22, by striking the word "him" and inserting in lieu thereof the words "the person".
575. Page 166B, line 53, by striking the word "him" and inserting in lieu thereof the words "the defendant".
576. Page 171, line 35, by striking the word "him" and inserting in lieu thereof the words "such person".
577. Page 172, line 21, by striking the word "him" and inserting in lieu thereof the words "such person".
578. Page 172, line 32, by striking the word "him" and inserting in lieu thereof the words "such person".
579. Page 172, line 34, by striking the word "him" and inserting in lieu thereof the words "such person" and by striking the word "he" and inserting in lieu thereof the words "such person".
580. Page 173, line 15, by striking the word "him" and inserting in lieu thereof the words "such person".
581. Page 173, line 30, by striking the word "he" and inserting in lieu thereof the words "such person".
582. Page 174, line 4, by striking the word "he" and inserting in lieu thereof the words "such person".
583. Page 174, line 5, by striking the word "he" and inserting in lieu thereof the words "such person".
584. Page 174, line 25, by striking the word "him" and inserting in lieu thereof the words "such person".
585. Page 175, line 1, by striking the word "him" and inserting in lieu thereof the words "the officer" and by striking the word "his" and inserting in lieu thereof the words "the officer's".
586. Page 175, line 10, by striking the word "him" and inserting in lieu thereof the words "such person".
587. Page 175, line 10, by striking the word "him" and inserting in lieu thereof the words "such person".
588. Page 182, line 17, by striking the word "his" and inserting in lieu thereof the words "the clerk's".
589. Page 182, line 31, by striking the word "his" and inserting in lieu thereof the words "the magistrate's".
590. Page 182, line 34, by striking the word "his" and inserting in lieu thereof the words "the clerk's".
591. Page 183, line 2, by striking the word "his"

and inserting in lieu thereof the words "the clerk's".

592. Page 183, line 7, by striking the word "him" and inserting in lieu thereof the words "the defendant".

593. Page 183, line 16, by striking the word "him" and inserting in lieu thereof the words "the defendant".

594. Page 183, line 17, by inserting after the first word "him" the words "or her", by striking the second word "him" and inserting in lieu thereof the words "the defendant", and by striking the word "he" and inserting in lieu thereof the words "the defendant".

595. Page 183, line 18, by inserting after the word "he" the words "or she" and by inserting after the word "his" the words "or her".

596. Page 183, line 19, by inserting after the first word "he" the words "or she", by striking the second word "he" and inserting in lieu thereof the words "the defendant", and inserting after the word "his" the words "or her".

597. Page 183, line 20, by striking the word "he" and inserting in lieu thereof the words "the defendant".

598. Page 183, line 21, by inserting after the word "he" the words "or she".

599. Page 183, line 22, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the defendant".

600. Page 183, line 26, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

601. Page 183, line 27, by striking the word "he" and inserting in lieu thereof the words "the defendant".

602. Page 183, line 28, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

603. Page 183, line 29, by inserting after the word "his" the words "or her".

604. Page 183, line 30, by striking the word "he" and inserting in lieu thereof the words "the defendant".

605. Page 183, line 31, by inserting after the word "he" the words "or she" and by inserting after the word "him" the words "or her".

606. Page 184, line 11, by striking the word "He" and inserting in lieu thereof the words "The magistrate".

607. Page 186, line 13, by inserting after the word "he" the words "or she".

608. Page 186, line 22, by inserting after the word "his" the words "or her".

609. Page 187, line 28, by inserting after the word "he" the words "or she".

610. Page 187, line 30, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

611. Page 188, line 1, by striking the word "his" and inserting in lieu thereof the words "the magistrate's".

612. Page 188, line 2, by striking the word "his" and inserting in lieu thereof the words "the magistrate's".

613. Page 189, line 5, by striking the word "him" and inserting in lieu thereof the words "the defendant".

614. Page 193, line 31, by inserting after the word "his" the words "or her".

615. Page 194, line 2, by striking the word "his" and inserting in lieu thereof the words "the clerk's".

616. Page 194, line 5, by inserting after the word "his" the words "or her".

617. Page 194, line 17, by inserting after the word "him" the words "or her".

618. Page 194, line 18, by inserting after the word "he" the words "or she".

619. Page 195, line 12, by striking the word "he" and inserting in lieu thereof the words "the defendant".

620. Page 195, line 14, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

621. Page 196, line 28, by striking the word "his" and inserting in lieu thereof the words "the defendant's" and by striking the word "he" and inserting in lieu thereof the words "the defendant".

622. Page 197, line 2, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

623. Page 197, line 3, by striking the word "him" and inserting in lieu thereof the words "the defendant".

624. Page 197, line 14, by striking the word "him" and inserting in lieu thereof the words "the clerk".

625. Page 197, line 32, by inserting after the word "his" the words "or her".

626. Page 198, line 21, by inserting after the word "his" the words "or her".

627. Page 200, line 1, by striking the word "he" and inserting in lieu thereof the words "such attorney" and by inserting after the word "his" the words "or her".

628. Page 200, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

629. Page 202, line 23, by inserting after the word "he" the words "or she".

630. Page 203, line 10, by inserting after the word "him" the words "or her".

631. Page 204, line 15, by striking the word "his" and inserting in lieu thereof the words "the person's".

632. Page 204, line 19, by inserting after the word "his" the words "or her".

633. Page 204, line 21, by striking the word "his" and inserting in lieu thereof the words "the person's".

634. Page 204, line 29, by inserting after the word "his" the words "or her".

635. Page 204, line 34, by inserting after the word "his" the words "or her".

636. Page 205, line 33, by striking the word "him" and inserting in lieu thereof the words "the fugitive".

637. Page 205, line 34, by inserting after the word "his" the words "or her" and by inserting after the word "he" the words "or she".

638. Page 206, line 2, by striking the word "his" and inserting in lieu thereof the words "the fugitive's".

639. Page 206, line 3, by striking the word "his" and inserting in lieu thereof the words "the fugitive's".

640. Page 206, line 8, by inserting after the word "his" the words "or her".

641. Page 206, line 10, by striking the word "he" and inserting in lieu thereof the words "the fugitive".

642. Page 206, line 13, by striking the word "him" and inserting in lieu thereof the words "the fugitive".

643. Page 206, line 26, by striking the word "him" and inserting in lieu thereof the words "the agent".

644. Page 206, line 27, by striking the first word "him" and inserting in lieu thereof the words "the agent" and by striking the second word "him" and inserting in lieu thereof the words "the fugitive".

645. Page 207, line 10, by striking the first word "him" and inserting in lieu thereof the words "the fugitive", by striking the second word "him" and inserting in lieu thereof the words "the fugitive", and by inserting after the word "he" the words "or she".

646. Page 207, line 17, by inserting after the word "his" the words "or her".
647. Page 207, line 21, by inserting after the word "he" the words "or she".
648. Page 207, line 33, by inserting after the word "his" the words "or her".
649. Page 208, line 7, by striking the word "he" and inserting in lieu thereof the words "the judge or magistrate" and by striking the word "his" and inserting in lieu thereof the words "the prisoner's".
650. Page 208, line 8, by striking the word "him" and inserting in lieu thereof the words "the judge or magistrate".
651. Page 208, line 9, by striking the word "his" and inserting in lieu thereof the words "the prisoner's".
652. Page 211, line 22, by striking the word "he" and inserting in lieu thereof the words "the judge".
653. Page 212, line 7, by striking the word "he" and inserting in lieu thereof the words "the witness".
654. Page 212, line 14, by striking the word "he" and inserting in lieu thereof the words "the witness" and by inserting after the word "his" the words "or her".
655. Page 212, line 16, by inserting after the word "he" the words "or she".
656. Page 212, line 19, by striking the word "him" and inserting in lieu thereof the words "the person".
657. Page 212, line 20, by striking the word "he" and inserting in lieu thereof the words "the person".
658. Page 212, line 22, by striking the word "his" and inserting in lieu thereof the words "the person's".
659. Page 212, line 26, by striking the word "he" and inserting in lieu thereof the words "the person".
660. Page 212, line 29, by striking the word "his" and inserting in lieu thereof the words "the person's".
661. Page 213A, line 35, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
662. Page 213B, line 37, by striking the word "his" and inserting in lieu thereof the words "the victim's".
663. Page 214, line 5, by inserting after the word "his" the words "or her".
664. Page 215, line 27, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
665. Page 216A, line 15, by striking the word "him" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the

words "or her".

666. Page 216A, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

667. Page 216A, line 18, by striking the first word "his" and inserting in lieu thereof the words "the person's" and by striking the second word "his" and inserting in lieu thereof the words "the person's".

668. Page 216A, line 19, by striking the word "he" and inserting in lieu thereof the words "the person".

669. Page 216A, line 24, by striking the word "him" and inserting in lieu thereof the words "the person".

670. Page 216B, line 37, by striking the word "him" and inserting in lieu thereof the words "the person".

671. Page 217A, line 13, by striking the word "him" and inserting in lieu thereof the words "the person".

672. Page 217A, line 14, by striking the word "his" and inserting in lieu thereof the words "the person's".

673. Page 217A, line 18, by inserting after the word "his" the words "or her".

674. Page 217A, line 20, by inserting after the word "his" the words "the person's".

675. Page 217B, line 39, by inserting after the word "his" the words "or her".

676. Page 217B, line 40, by striking the word "he" and inserting in lieu thereof the words "the person".

677. Page 217B, line 49, by striking the word "he" and inserting in lieu thereof the words "the person".

678. Page 218, line 8, by striking the word "he" and inserting in lieu thereof the words "the person".

679. Page 218, line 9, by inserting after the word "his" the words "or her".

680. Page 218, line 33, by striking the word "he" and inserting in lieu thereof the words "the commissioner".

681. Page 218, line 35, by striking the word "him" and inserting in lieu thereof the words "such person".

682. Page 219, line 5, by striking the word "his" and iserting in lieu thereof the words "the person's".

683. Page 219, line 6, by inserting after the word "his" the words "or her".

684. Page 219, line 7, by striking the word "his" and inserting in lieu thereof the words "the person's".

685. Page 219, line 14, by striking the word "his" and inserting in lieu thereof the words "the person's".
686. Page 219, line 20, by striking the word "his" and inserting in lieu thereof the words "the person's".
687. Page 219, line 23, by striking the word "he" and inserting in lieu thereof the words "the person".
688. Page 219, line 26, by striking the word "he" and inserting in lieu thereof the words "the person".
689. Page 220A, line 23, by striking the word "him" and inserting in lieu thereof the words "the person".
690. Page 221, line 28, by inserting after the word "his" the words "or her".
691. Page 221, line 29, by inserting after the word "his" the words "or her".
692. Page 221, line 31, by striking the word "chairman" and inserting in lieu thereof the word "chairperson".
693. Page 222, line 23, by inserting after the word "his" the words "or her".
694. Page 222, line 26, by inserting after the word "his" the words "or her".
695. Page 223, line 28, by striking the word "his" and inserting in lieu thereof the words "the person's".
696. Page 223, line 29, by inserting after the word "him" the words "or her" and by inserting after the word "his" the words "or her".
697. Page 224, line 11, by inserting after the word "his" the words "or her".
698. Page 224, line 12, by inserting after the word "his" the words "or her".
699. Page 224, line 13, by striking the word "his" and inserting in lieu thereof the words "the prisoner's".
700. Page 224, line 32, by striking the word "his" and inserting in lieu thereof the words "the person's".
701. Page 224, line 33, by striking the word "his" and inserting in lieu thereof the words "the person's".
702. Page 225A, line 15, by inserting after the word "himself" the words "or herself".
703. Page 225A, line 16, by striking the word "himself" and inserting in lieu thereof the words "the person" and by inserting after the word "he" the words "or she".
704. Page 225A, line 22, by striking the word "him" and inserting in lieu thereof the words "the person".
705. Page 225A, line 24, by striking the word "him" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the

words "or her".

706. Page 225A, line 27, by striking the word "his" and inserting in lieu thereof the words "the person's".

707. Page 225A, line 29, by striking the word "his" and inserting in lieu thereof the words "the person's".

708. Page 225B, line 39, by striking the word "him" and inserting in lieu thereof the words "the person".

709. Page 227A, line 6, by striking the word "he" and inserting in lieu thereof the words "the person".

710. Page 227A, line 8, by striking the word "he" and inserting in lieu thereof the words "the person".

711. Page 227A, line 12, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

712. Page 227A, line 13, by inserting after the word "his" the words "or her".

713. Page 227A, line 14, by striking the word "he" and inserting in lieu thereof the words "the person".

714. Page 227A, line 16, by striking the word "him" and inserting in lieu thereof the words "the person".

715. Page 227A, line 17, by striking the word "him" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

716. Page 228, line 9, by inserting after the word "his" the words "or her".

717. Page 228, line 15, by inserting after the word "his" the words "or her".

718. Page 228, line 21, by inserting after the word "his" the words "or her".

719. Page 228, line 22, by striking the word "his" and inserting in lieu thereof the words "the person's".

720. Page 228, line 29, by striking the word "him" and inserting in lieu thereof the words "the person".

721. Page 228, line 30, by striking the word "his" and inserting in lieu thereof the words "the person's".

722. Page 229, line 2, by striking the word "his" and inserting in lieu thereof the words "or her".

723. Page 230, line 12, by inserting after the word "he" the words "or she".

724. Page 230, line 13, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

725. Page 231, line 14, by striking the word "his"

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and inserting in lieu thereof the words "the defendant's".

726. Page 231, line 16, by striking the first word "his" and inserting in lieu thereof the words "the defendant's" and by striking the second word "his" and inserting in lieu thereof the words "the defendant's".

727. Page 232, line 16, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

728. Page 232, line 17, by striking the word "his" and inserting in lieu thereof the words "the person's".

729. Page 232, line 18, by striking the word "he" and inserting in lieu thereof the words "the person".

730. Page 232, line 20, by striking the first word "him" and inserting in lieu thereof the words "the person" and by striking the second word "him" and inserting in lieu thereof the words "the person".

731. Page 232, line 21, by inserting after the word "his" the words "or her".

732. Page 232, line 31, by striking the word "his" and inserting in lieu thereof the words "the chief probation officer's".

733. Page 233, line 10, by striking the word "him" and inserting in lieu thereof the words "the county attorney".

734. Page 233, line 11, by striking the word "him" and inserting in lieu thereof the words "the defendant".

735. Page 233, line 13, by striking the word "his" and inserting in lieu thereof the words "the defendant's" and by inserting after the word "he" the words "or she".

736. Page 233, line 15, by striking the word "him" and inserting in lieu thereof the words "the defendant".

737. Page 233, line 16, by striking the word "he" and inserting in lieu thereof the words "the defendant".

738. Page 233, line 17, by inserting after the word "his" the words "or her".

739. Page 233, line 28, by inserting after the word "his" the words "or her".

740. Page 234, line 11, by striking the word "him" and inserting in lieu thereof the words "the person".

741. Page 234, line 13, by striking the word "him" and inserting in lieu thereof the words "the person".

742. Page 235, line 20, by inserting after the word "his" the words "or her".

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743. Page 235, line 35, by inserting after the word "he" the words "or she".

744. Page 236, line 1, by striking the word "he" and inserting in lieu thereof the words "the defendant".

745. Page 236, line 4, by inserting after the word "he" the words "or she".

746. Page 236, line 6, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

747. Page 236, line 21, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

748. Page 236, line 30, by striking the first word "his" and inserting in lieu thereof the words "the defendant's", by striking the second word "his" and inserting in lieu thereof the words "the defendant's", by striking the third word "his" and inserting in lieu thereof the words "the defendant's", and by striking the fourth word "his" and inserting in lieu thereof the words "the defendant's".

749. Page 236, line 31, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

750. Page 236, line 32, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

751. Page 237, line 2, by inserting after the word "his" the words "or her".

752. Page 238A, line 6, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the parole officer".

753. Page 238A, line 10, by inserting after the word "his" the words "or her" and by striking the words "he" and inserting in lieu thereof the words "the magistrate".

754. Page 238A, line 17, by inserting after the word "his" the words "or her".

755. Page 238A, line 21, by inserting after the word "he" the words "or she".

756. Page 238B, line 40, by inserting after the word "his" the words "or her".

757. Page 238B, line 41, by inserting after the word "him" the words "or her" and by striking the word "He" and inserting in lieu thereof the words "The alleged parole violator".

758. Page 238B, line 43, by inserting after the word "his" the words "or her" and by striking the word "He" and inserting in lieu thereof the words

"The alleged parole violator".

759. Page 238B, line 45, by inserting after the word "him" the words "or her".

760. Page 238B, line 46, by striking the word "his" and inserting in lieu thereof the word "witness'".

761. Page 239, line 4, by inserting after the word "him" the words "or her" and by striking the word "his" and inserting in lieu thereof the words "the alleged violator's".

762. Page 239, line 5, by inserting after the word "he" the words "or she".

763. Page 239, line 6, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the alleged violator".

764. Page 239, line 7, by inserting after the word "he" the words "or she".

765. Page 239, line 15, by inserting after the word "his" the words "or her" and by striking the word "him" and inserting in lieu thereof the words "the arrested person".

766. Page 239, line 18, by inserting after the word "his" the words "or her".

767. Page 239, line 19, by striking the word "him" and inserting in lieu thereof the words "the arrested person".

768. Page 239, line 22, by striking the word "him" and inserting in lieu thereof the words "the arrested person".

769. Page 239, line 25, by striking the word "him" and inserting in lieu thereof the words "the liaison officer".

770. Page 239, line 26, by striking the word "him" and inserting in lieu thereof the words "the liaison officer" and by inserting after the word "his" the words "or her".

771. Page 240, line 8, by inserting after the word "his" the words "or her".

772. Page 240, line 28, by striking the word "him" and inserting in lieu thereof the words "the alleged violator" and by inserting after the word "his" the words "or her".

773. Page 240, line 29, by striking the word "him" and inserting in lieu thereof the words "the alleged violator" and by inserting after the word "he" the words "or she".

774. Page 240, line 31, by inserting after the word "he" the words "or she".

775. Page 240, line 34, by inserting after the

word "his" the words "or her".

776. Page 241, line 1, by inserting after the word "his" the words "or her".

777. Page 241, line 2, by inserting after the word "his" the words "or her".

778. Page 241, line 3, by inserting after the word "him" the words "or her".

779. Page 241, line 8, by striking the word "his" and inserting in lieu thereof the words "the parolee's".

780. Page 241, line 10, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

781. Page 241, line 17, by inserting after the word "his" the words "or her".

782. Page 243, line 14, by inserting after the word "his" the words "or her".

783. Page 243, line 33, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the governor".

784. Page 245, line 4, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the state auditor".

785. Page 245, line 13, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the state auditor".

786. Page 249, line 16, by inserting after the word "his" the words "or her".

787. Page 249, line 18, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

788. Page 250, line 20, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the employee".

789. Page 250, line 23, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the employee's".

790. Page 252, line 12, by inserting after the word "he" the words "or she".

791. Page 252, line 35, by inserting after the word "his" the words "or her".

792. Page 253, line 20, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the incumbent's".

793. Page 254, line 8, by inserting after the word "his" the words "or her".

794. Page 254, line 9, by inserting after the word "his" the words "or her".

795. Page 254, line 10, by inserting after the word "his" the words "or her".

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796. Page 254, line 11, by inserting after the word "him" the words "or her" and by inserting after the word "he" the words "or she".

797. Page 254, line 16, by inserting after the word "his" the words "or her".

798. Page 254, line 18, by inserting after the word "he" the words "or she".

799. Page 254, line 24, by inserting after the word "his" the words "or her".

800. Page 254, line 26, by inserting after the word "his" the words "or her".

801. Page 255, line 9, by inserting after the word "he" the words "or she".

802. Page 255, line 10, by inserting after the word "himself" the words "or herself".

803. Page 257, line 14, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the employee's".

804. Page 258, line 14, by inserting after the word "he" the words "or she".

805. Page 258, line 21, by inserting after the word "his" the words "or her".

806. Page 258, line 22, by inserting after the word "his" the words "or her".

807. Page 260, line 1, by inserting after the word "his" the words "or her".

808. Page 260, line 3, by inserting after the word "his" the words "or her".

809. Page 260, line 24, by inserting after the word "him" the words "or her".

810. Page 260, line 25, by inserting after the word "his" the words "or her".

811. Page 261, line 1, by inserting after the word "his" the words "or her".

812. Page 261, line 8, by inserting after the word "he" the words "or she" and by inserting after the word "him" the words "or her".

813. Page 261, line 9, by inserting after the word "his" the words "or her".

814. Page 261, line 21, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

815. Page 263, line 27, by inserting after the word "his" the words "or her".

816. Page 263, line 34, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the employer".

817. Page 264, line 1, by inserting after the word "his" the words "or her".

818. Page 266, line 1, by striking the word "he"

and inserting in lieu thereof the words "~~he~~ the person".

819. Page 267, line 34, by inserting after the word "his" the words "or her".

820. Page 270, line 6, by inserting after the word "him" the words "or her".

821. Page 270, line 14, by inserting after the word "his" the words "or her".

822. Page 272, line 24, by inserting after the word "himself" the words "or herself".

823. Page 275, line 16, by inserting after the word "he" the words "or she".

824. Page 280, line 4, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the executive officer".

825. Page 280, line 11, by inserting after the word "his" the words "or her".

826. Page 290, line 24, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

827. Page 291, line 17, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

828. Page 296, line 2, by inserting after the word "his" the words "or her".

829. Page 297, line 2, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

830. Page 297, line 17, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

831. Page 298, line 9, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

832. Page 299, line 18, by inserting after the word "him" the words "or her".

833. Page 300, line 30, by inserting after the word "him" the words "or her".

834. Page 301, line 1, by inserting after the word "him" the words "or her".

835. Page 301, line 29, by inserting after the word "his" the words "or her".

836. Page 304, line 26, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the owner's".

837. Page 305, line 6, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the veterinarian's".

838. Page 305, line 7, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the

veterinarian".

839. Page 311, line 2, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the person" and by inserting after the word "he" the words "or she".

840. Page 311, line 8, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the officer".

841. Page 313, line 13, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the secretary" and by striking the word "he" and inserting in lieu thereof the words "~~him~~ the secretary".

842. Page 313, line 17, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the secretary".

843. Page 313, line 18, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the secretary".

844. Page 313, line 27, by inserting after the word "himself" the words "or herself" and by inserting after the word "his" the words "or her".

845. Page 313, line 33, by inserting after the word "himself" the words "or herself" and by inserting after the word "his" the words "or her".

846. Page 314, line 11, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

847. Page 314, line 32, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the secretary's".

848. Page 314, line 33, by inserting after the word "his" the words "or her".

849. Page 316, line 8, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the secretary's".

850. Page 319, line 14, by inserting after the word "his" the words "or her".

851. Page 320, line 11, by inserting after the word "him" the words "or her".

852. Page 322, line 18, by inserting after the word "himself" the words "or herself" and by inserting after the word "his" the words "or her".

853. Page 323, line 30, by inserting after the word "his" the words "or her".

854. Page 326, line 1, by inserting after the word "him" the words "or her".

855. Page 326, line 2, by inserting after the word "him" the words "or her".

856. Page 326, line 3, by inserting after the word "him" the words "or her".

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Page 44

857. Page 326, line 6, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

858. Page 333, line 5, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the officer".

859. Page 335, line 10, by inserting after the word "him" the words "or her".

860. Page 338, line 2, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

861. Page 346, line 11, by inserting after the word "his" the words "or her".

862. Page 347, line 27, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

863. Page 347, line 28, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

864. Page 351, line 12, by inserting after the word "he" the words "or she".

865. Page 351, line 18, by inserting after the word "he" the words "or she".

866. Page 352, line 3, by inserting after the word "his" the words "or her".

867. Page 352, line 20, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

868. Page 354, line 18, by inserting after the word "he" the words "or she".

869. Page 355, line 33, by inserting after the word "he" the words "or she".

870. Page 356, line 3, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the secretary's".

871. Page 357, line 23, by inserting after the word "him" the words "or her".

872. Page 357, line 24, by inserting after the word "him" the words "or her".

873. Page 357, line 29, by inserting after the word "him" the words "or her".

874. Page 358, line 13, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

875. Page 362, line 17, by inserting after the word "his" the words "or her".

876. Page 362, line 19, by striking the first word "he" and inserting in lieu thereof the words "~~he~~ the person" and by striking the second word "he" and inserting in lieu thereof the words "~~he~~ the

person".

877. Page 363, line 14, by inserting after the word "his" the words "or her".

878. Page 363, line 18, by inserting after the word "his" the words "or her".

879. Page 363, line 19, by striking the word "he" and inserting in lieu thereof the words "the person".

880. Page 364, line 9, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

881. Page 364, line 10, by inserting after the word "him" the words "or her".

882. Page 364, line 33, by inserting after the word "he" the words "or she".

883. Page 365, line 3, by inserting after the word "him" the words "or her".

884. Page 365, line 9, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the treasurer or auditor".

885. Page 365, line 10, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

886. Page 366, line 1, by inserting after the word "himself" the words "or herself".

887. Page 366, line 3, by inserting after the word "he" the words "or she".

888. Page 366, line 11, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the treasurer's".

889. Page 366, line 29, by inserting after the word "him" the words "or her".

890. Page 366, line 32, by inserting after the word "he" the words "or she", by inserting after the first word "his" the words "or her", and by inserting after the second word "his" the words "or her".

891. Page 368, line 18, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

892. Page 369, line 28, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

893. Page 372, line 8, by inserting after the word "he" the words "or she".

894. Page 378, line 9, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the person" and by striking the word "his" and inserting in lieu thereof the words "~~his~~ such person's".

895. Page 378, line 11, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

896. Page 381, line 1, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the officer or director".

897. Page 382, line 8, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the commissioner's".

898. Page 382, line 13, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the commissioner's".

899. Page 382, line 29, by inserting after the word "his" the words "or her".

900. Page 383, line 3, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

901. Page 383, line 33, by inserting after the word "his" the words "or her".

902. Page 383, line 34, by inserting after the word "his" the words "or her".

903. Page 384, line 14, by inserting after the word "himself" the words "or herself".

904. Page 384, line 18, by inserting after the word "his" the words "or her".

905. Page 385, line 27, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the director or officer".

906. Page 394, line 11, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the commissioner's".

907. Page 403, line 27, by inserting after the word "he" the words "or she".

908. Page 404, line 3, by inserting after the word "he" the words "or she".

909. Page 404, line 5, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

910. Page 404, line 7, by inserting after the word "he" the words "or she".

911. Page 404, line 8, by inserting after the word "he" the words "or she".

912. Page 404, line 11, by inserting after the word "he" the words "or she".

913. Page 404, line 12, by inserting after the word "he" the words "or she".

914. Page 404, line 17, by striking the first word "he" and inserting in lieu thereof the words "the person" and by inserting after the second word "he" the words "or she".

915. Page 404, line 20, by inserting after the word "he" the words "or she".

916. Page 404, line 31, by inserting after the

word "he" the words "or she".

917. Page 405, line 6, by inserting after the word "he" the words "or she".

918. Page 405, line 9, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

919. Page 405, line 11, by inserting after the word "he" the words "or she".

920. Page 405, line 12, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

921. Page 405, line 16, by inserting after the word "he" the words "or she".

922. Page 405, line 17, by inserting after the word "he" the words "or she".

923. Page 405, line 22, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

924. Page 406, line 34, by inserting after the word "he" the words "or she".

925. Page 407, line 30, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

926. Page 408, line 2, by inserting after the word "his" the words "or her".

927. Page 412, line 29, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the tenant".

928. Page 415, line 34, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the citizens' aide's".

929. Page 416A, line 1, by inserting after the word "his" the words "or her".

930. Page 417, line 5, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

931. Page 417, line 12, by inserting after the word "his" the words "or her".

932. Page 417, line 13, by inserting after the word "his" the words "or her".

933. Page 417, line 32, by inserting after the word "he" the words "or she".

934. Page 418, line 5, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the public official".

935. Page 418, line 28, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the juror".

936. Page 418, line 31, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the juror's".

937. Page 418, line 33, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the juror".

938. Page 420, line 9, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the plaintiff" and by striking the word "he" and inserting in lieu thereof the words "~~he~~ the defendant".

SENATE 2
APRIL 29, 1976

HOUSE AMENDMENT TO SENATE FILE 85

S-5603

Amend Senate File 85, as amended, passed, and reprinted by the Senate, as follows:

1. Page 1, by striking lines 9 through 14, and inserting in lieu thereof the following:

"Sec. ___. PUBLIC OFFENSE. A public offense is that which is prohibited by statute and is punishable by fine or imprisonment."

2. Page 2, line 7, by striking the words "A person's".

3. Page 2, by striking lines 8 through 20.

4. Page 2, by striking lines 35 and 36.

5. Page 3, by striking line 1.

6. Page 3, line 17, by striking the word "meanings" and inserting in lieu thereof the word "meaning" and by striking the words "to that term".

7. Page 3, line 18, by striking the words "is clear that the term".

8. Page 3, by striking line 23, and inserting the word "vertebrate".

9. Page 4, by striking lines 1 and 2.

10. Page 4, lines 5 and 6, by striking the words "other living creature" and inserting in lieu thereof the word "animal".

11. Page 4, line 12, by inserting after the word "weapon." the following: "Dangerous weapons include, but are not limited to, any offensive weapon, pistol, revolver, or other firearm, dagger, razor, stilletto, or knife having a blade of three inches or longer in length."

12. Page 4, by inserting after line 12 the following:

"Sec. ____. NEW SECTION. DEATH. "Death" means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician, 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 person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased."

13. Page 4, line 13, by striking the words "FRAUDULENT PRACTICE. Fraudulent" and inserting in lieu thereof the word "DECEPTION".

14. Page 4, line 14, by striking the word

"practice" and inserting in lieu thereof the word "Deception".

15. Page 5, line 10, by striking the word "homicide" and inserting in lieu thereof the word "murder".

16. Page 5, line 13 by striking the word "building" and inserting in lieu thereof the word "building,".

17. Page 5, line 21, by inserting after the word "during" the words "part or".

18. Page 6, by striking lines 2 through 11.

19. Page 6, by striking lines 12 through 16, and inserting in lieu thereof the following:

Sec. ___. NEW SECTION. RECKLESS. A person is reckless or acts recklessly when he or she willfully or wantonly disregards the safety of persons or property.

20. Page 6, line 19, by striking the words "either natural or deviate,".

21. Page 6, by striking lines 21 and 22, and inserting in lieu thereof the following: "mouth or tongue of one person and genitalia of another person or by contact between genitalia of one person and the genitalia or anus of another person, or by contact between a finger of one person and the genitalia of another person for the purpose of arousing or satisfying the sexual desires of either, or by use of artificial".

22. Page 6, by deleting lines 24 through 29, and inserting in lieu thereof the following:

Sec. 219. NEW SECTION. SERIOUS INJURY. "Serious unjury" means 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.

23. Page 6, by striking lines 34 through page 7 line 10 and inserting in lieu thereof the following:

"Sec. 301. NEW SECTION. 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 he or she had in it, and does not depend upon the degree of another person's guilt."

24. Page 7, line 12, by inserting after the word "concert," the word "knowingly".

25. Page 7, line 16, by striking the words "which

he did not".

26. Page 7, line 17, by striking the words "expressly or tacitly acquiesce in" and inserting in lieu thereof the words "in which he did not consent".

27. Page 7, line 23, by striking the word "felon" and inserting in lieu thereof the words "person accused of committing the felony".

28. Page 7, line 24, by striking the words "of the felon" and inserting in lieu thereof the words "of the accused person" and by striking the words "conceals the felon" and inserting in lieu thereof the words "conceals the accused person".

29. Page 7, line 28, by striking the word "offender" and inserting in lieu thereof the words "person accused of committing the misdemeanor".

30. Page 7, line 29, by striking the word "offender" and inserting in lieu thereof the words "accused person".

31. Page 7, line 30, by striking the word "offender" and inserting in lieu thereof the words "accused person".

32. Page 7, line 32, by inserting after the word "officer" the word ", director,".

33. Page 7, line 33, by striking the word "a" and inserting in lieu thereof the words "the same".

34. Page 8, line 21, by inserting after the word "officer" the word ", director,".

35. Page 8, line 22, by striking the words "his authority" and inserting in lieu thereof the words "the authority of the agent, officer, director or employee".

36. Page 9, by striking lines 4 through 9 and inserting in lieu thereof the following: "or threat. Reasonable force, including deadly force, may be used even if an alternative course of action is available if the alternative entails a risk to one's life or safety, or the life or safety of a third party, or requires one to abandon or retreat from his dwelling or place of business or employment."

37. Page 9, line 28, by inserting after the word "property." the words "Nothing in this section authorizes the use of any spring gun or trap which is left unattended and unsupervised and which is placed for the purpose of preventing or terminating criminal interference with the possession of or other right in property."

38. Page 9, line 31, by inserting after the word "of" the words "his rights in property or in

- 5640 concurred as amended by 5/7 (1806) .5640

any public".

39. Page 10, lines 15 and 16, by striking the words "felon, any force which he reasonably believes to be necessary" and inserting in lieu thereof the words "perpetrator, reasonable force".

40. Page 10, line 19, by inserting after the word "using" the word "reasonable". CA. amended by 5677 and concurred 5/7 (1774)

41. Page 10, lines 20 and 21, by striking the words ", which he reasonably believes to be necessary".

42. Page 10, by striking lines 27 through 29 and inserting in lieu thereof the following: "place. An officer is justified in using deadly force only when the officer reasonably believes that the person attempting to escape is armed with a dangerous weapon, or is confined on a charge or conviction of a felony or an aggravated misdemeanor, or that there is a substantial risk that the person attempting to escape will cause death or serious physical injury unless his or her escape is prevented". B Senate refused to concur 5/3 (1673) 5677 5686

43. Page 11, by striking lines 1 through 13. CB-Ref

44. Page 11, by striking lines 14 through 19. "

45. Page 12, by inserting after line 15 the following new section: B-1 Reference to committee amended by ~~SCS~~ ~~5684~~ 5/5 (1725)

"Sec._____. NEW SECTION. TERMINATION OF LIFE SUPPORT SERVICES. Upon the concurrence of the guardian and family of a comatose hospital patient, should the responsible attending physicians conclude that there is no reasonable possibility of the patient's ever emerging from a present comatose condition to a cognitive, sapient state and that the life-support apparatus now being administered the patient should be discontinued, they shall consult with the hospital "Ethics Committee" or like body of the institution in which the patient is then hospitalized. If that consultative body agrees that there is no reasonable possibility of the patient's ever emerging from a present comatose condition to a cognitive, sapient state, the present life-support system may be withdrawn and said action shall be without any civil or criminal liability therefor, on the part of any participant, whether guardian, physician, hospital or others." } 5685 } 5661 5664 5676

46. Page 12, by striking lines 18 through 27 and inserting in lieu thereof the following:

"Sec.____. NEW SECTION. CONSPIRACY. Conspiracy is an agreement or combination between two or more persons to engage in a course of conduct which will consist, in whole or in part, of criminal acts to be committed by

one or more of the conspirators. A person shall not be convicted of a conspiracy without proof of an overt act by one of more of the conspirators evidencing a design to accomplish the purpose of the conspiracy by criminal means."

47. Page 12, line 30, by striking the words "voluntary alliance" and inserting in lieu thereof the word "combination".

48. Page 12, line 32, by striking the words "voluntary alliance" and inserting in lieu thereof the word "combination".

49. Page 13A, by striking lines 2 through 4 and inserting in lieu thereof the following: "in such county; provided, that a person may not be prosecuted more than once for a conspiracy based on the same agreement or combination."

50. Page 13A, by striking lines 5 through 15, and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. PENALTIES. A person who commits a conspiracy to commit a forcible felony is guilty of a class C felony. A person who commits a conspiracy to commit a felony, other than a forcible felony, is guilty of a class D felony. A person who commits a conspiracy to commit a misdemeanor is guilty of a misdemeanor of the same class." — 5638

51. Page 13A, line 22, by striking the word "HOMICIDE" and inserting in lieu thereof the word "MURDER".

52. Page 13A, line 23, by striking the words "CRIMINAL HOMICIDE" and inserting in lieu thereof the word "MURDER".

53. Page 13A, lines 25 and 26, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

54. Page 13A, line 27, by striking the words "CRIMINAL HOMICIDE" and inserting in lieu thereof the word "MURDER".

55. Page 13A, line 28, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

56. Page 13A, lines 29 and 30, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

57. Page 13B, by inserting after line 36 the following new subsection:

"The person kills a peace officer, correctional officer, public employee, or hostage while such person is imprisoned in a correctional institution under the jurisdiction of the department of social services, or in a city or county jail."

C
- 5633 Senate concurred as amended by 5633 5/3 (1673)

58. Page 13B, line 37, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

59. Page 13B, line 39, by striking the words "CRIMINAL HOMICIDE" and inserting in lieu thereof the word "MURDER".

60. Page 13B, line 40, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

61. Page 13B, line 41, by striking the word "criminal".

62. Page 13B, by striking line 42 and inserting in lieu thereof the words "murder which is not murder in the first".

63. Page 13B, line 44, by striking the words "Criminal homicide" and inserting in lieu thereof the word "Murder".

64. Page 13B, lines 49 and 50, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

65. Page 13B, line 51, by striking the word "irresistable" and inserting in lieu thereof the word "irresistible".

66. Page 13B, line 57, by striking the words "may be proved as" and inserting in lieu thereof the word "is".

67. Page 13B, line 58, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

68. Page 13B, line 65, by inserting after the word "felony" the words "or escape". Concurred 5/7 (1782)

69. Page 13C, line 71, by striking the words "may be proved as" and inserting in lieu thereof the word "is".

70. Page 13C, line 72, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

71. Page 13C by inserting after line 73 the following new section:

Sec. New Section. No person who injures the aggressor through application of reasonable force in defense of his or her person or property may be held civilly liable for such injury.

No person who injures the aggressor through application of reasonable force in defense of a second person may be held civilly liable for such injury.

72. Page 15A, line 26, by striking the word "medine" and inserting in lieu thereof the word "medicine".

73. Page 15A, line 28, by inserting after the word "person", the words "or of the fetus".

74. Page 15A, line 29, by inserting after the word "every", the word "reasonable".

75. Page 15B, line 43 by inserting after the word "or" the word "felonious".

76. Page 15B, line 46 by inserting after the word "and" the word "voluntary".

77. Page 15B, line 50 by striking the word "or" and inserting in lieu thereof the word "and".

78. Page 15B, line 53, by inserting after the word "person" the words "or of the fetus".

79. Page 15B, line 59, by striking the words "after the twentieth week of pregnancy".

80. Page 59B, line 62, by striking the words "After the twentieth week of pregnancy, a" and inserting in lieu thereof the word "A".

81. Page 15B, line 64, by inserting after the word "who" the word "willfully".

82. Page 16, line 16, by inserting after the word "another" the words ", coupled with the apparent ability to execute the act".

83. Page 16, line 19, by inserting after the word "offensive" the words ", coupled with the apparent ability to execute the act".

84. Page 16, line 21, by striking the word "deadly" and inserting in lieu thereof the word "dangerous".

85. Page 16, by striking lines 31 through 34 and inserting in lieu thereof the following:

"1. A person who commits an assault with the intent to inflict serious injury upon another person or who intentionally points any firearm or displays a dangerous weapon in a threatening manner toward another person, shall be guilty of an aggravated misdemeanor."

86. Page 17, by inserting after line 6 the following new section:

"Sec. ____. NEW SECTION. ASSAULT ON A PEACE OFFICER. A person commits an aggravated misdemeanor if he commits an assault as defined in section eight hundred one (801) of this division on any peace officer who is acting within the scope of his duty or authority."

87. Page 17, by striking lines 18 through 25.

88. Page 17, line 28, by striking the word ", harass,".

89. Page 17, by striking line 29 and inserting in lieu thereof the following:

"1. Shoots, throws, launches, or discharges a

> 5649

D
– 5654
Senate concurred per 5654 5/5 (1725)
Amt. to recommend (1729) w.d. (1796)
W

E-1
Senate concurred 5/3

E-2
Senate refused 5/3 (1677)

F
Sen. Refused to concur

SC - Concurred 5/6 (1751)
W

dangerous weapon".

90. Page 18, by striking lines 5 through 8.

91. Page 18, line 12, by inserting after the word "or" the word "simulated".

92. Page 18, by striking lines 35, 36 and 37.

93. Page 19A, by striking line 1 and inserting in lieu thereof the following: "between persons is sexual abuse by either of the participants when the act is performed with".

94. Page 19A, by striking lines 3 through 13 and inserting in lieu thereof the following:

"1. When force or coercion is used to accomplish the sex act. Force or coercion includes but is not limited to any of the following circumstances:

a. When the defendant overcomes the victim through the actual application of physical force or physical violence.

b. When the defendant coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the defendant has the present ability to execute these threats.

c. When the defendant coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the defendant has the ability to execute this threat. As used in this subdivision "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

d. When the defendant engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

e. When the defendant through concealment or by element of surprise, is able to overcome the victim.

2. The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless."

95. Page 19A, by striking lines 17 and 18 and inserting in lieu thereof the following: "the course of committing sexual abuse the other participant is seriously injured or the other participant is under the age of twelve.

96. Page 19A, by striking line 28 in its entirety.

97. Page 19A, line 30, by striking the words "force and against the will" and inserting in lieu thereof "force".

98. Page 19A, by striking line 31.

99. Page 19B, by striking line 37 through page 20A, line 1 and inserting in lieu thereof the following:

1. When force or coercion is used to accomplish

the sex act. Force or coercion includes but is not limited to any of the following circumstances:

a. When the defendant overcomes the victim through the actual application of physical force or physical violence.

b. When the defendant coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the defendant has the present ability to execute these threats.

c. When the defendant coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the defendant has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

d. When the defendant engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

e. When the defendant, through concealment or by the element of surprise, is able to overcome the victim.

2. The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless."

101. Page 20A, by striking line 2 and inserting in lieu thereof the following:

"The other person is 12 years of age but less than 16 years of age and the defendant is a member of the same household as the victim, the defendant is related to the victim by blood or affinity to the fourth degree, or the defendant is in a position of authority over the victim and used this authority to coerce the victim to submit."

102. Page 20A, by striking lines 5 through 7 and inserting in lieu thereof the following:

"A person commits sexual abuse in the fourth degree when the person commits sexual abuse with a child."

103. Page 20A by striking "D" from line 8 and inserting in lieu thereof "C".

104. Page 20A, lines 21 and 22, by striking the words "PERSONS UNDER THE AGE OF SIXTEEN YEARS" and inserting in lieu thereof the words "A CHILD".

105. Page 20A, line 24, by striking the words "any person under the age of sixteen" and inserting in lieu thereof the words "a child".

106. Page 20A, lines 28 and 29, by striking the

H - Concurred 5/6 (1757)

5693
5701

J - Refused to concur 5/6 (1758)

N - Refused 5/6 (1759)

K - Refused 5/6 (1759)

5693, 5700

CE - Concurred 5/6 (1751)

CE - Concurred

words "person under the age of sixteen" and inserting in lieu thereof the word "child".

107. Page 20A, line 30, by striking the words "person under the age of sixteen" and by inserting in lieu thereof the word "child".

108. Page 20A, line 32, by striking the words "person under sixteen years of age" and inserting in lieu thereof the word "child".

109. Strike page 20A, line 33 through page 20B, line 36, and inserting in lieu thereof the words "in a sex act." — H concurred as amended by 5644 5623 5/7 (1806)

110. Page 20B, by striking lines 37 through 39 and inserting in lieu thereof the following:

"4. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on him or her."

111. Page 21A, line 7, by striking the words "either of them" and inserting in lieu thereof the words "such person or another". — 5648

112. Page 21A, line 13, by striking the word "veneral" and inserting in lieu thereof the word "venereal".

113. Page 21A, line 7, by striking the words "either of them" and inserting in lieu thereof the words "such person or another". — 5639

114. Page 21A, lines 14 and 15, by striking the words "county in which the crime was committed." and inserting the word "state." — 5665 — CF - Concurred as amended by 5665 4/6 (1751)

115. Page 21A, line 28, by inserting after the word "person" the following: "or to confine such person without authority or without the consent of such person." — CJ - Refused to concur 5/6 (1752)

116. Page 21A, line 35, by inserting after the word "abuse" the words "in the first, second or third degree". — CH - Concurred as amended by 5653 5/6 (1752)

117. Page 21B, line 40, by inserting after the word "ransom" the words "or where the victim is subject to sexual abuse in the fourth degree". — 5653

118. Page 21B, line 41, by striking the words "a firearm or displays".

119. Page 22, line 1, by striking after the word "class" the letter "C" and inserting in lieu thereof the letter "B". — DH - Refused 5/7 (1782)

120. Page 22, line 12, by inserting after the word "state" the words "or holds such child in another state". — L - Senate refused to concur 5/13

121. Page 22, line 15, by striking everything after the word "no". — K cd - Refused (1752)

122. Page 22, line 16, by striking the words "that he has any".

123. Page 23, line 2, by striking the words "or displays a dangerous weapon,".

124. Page 23, line 3, by striking the word "firearm" and inserting in lieu thereof the words "dangerous weapon". M Senate concurred 5/3 (1677)

125. Page 24, line 7, by inserting after the word "damaged" the following: "Provided, that where a person who owns said property which the defendant intends to destroy or damage, or which he 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."

126. Page 24, line 11, by striking the words "a dwelling, or a building" and inserting in lieu thereof the word "property".

127. Page 24, lines 12 through 15, by striking the phrase "or when he knows or should know that his act will create a reasonable probability that death or serious physical injury to another will result".

128. Page 24, by striking lines 28 through page 25, line 3.

129. Page 25, by striking lines 14 through 25. cf - Refused 5/6 (1752)

130. Page 25, line 31, by striking the word "will" and inserting in lieu thereof the word "would".

131. Page 25, line 33, by striking the words "A person who makes".

132. Page 25, by striking line 34 and inserting in lieu thereof the words "Any person who threatens to place or attempts to place".

133. Page 27A, line 31, by inserting after the word "Takes" the words ", destroys, conceals".

134. Page 27A, line 34, by inserting after the word "Makes" the words ", utters, draws, delivers, or gives".

135. Page 28A, line 3, by striking the words "may infer" and inserting in lieu thereof the words "shall presume". O Refused to concur 5/3

136. Page 28A, by striking lines 8 through 11.

137. Page 28A, line 12, by striking the word "presented.".

138. Page 28A, line 32 by striking the words "or theft of a motor vehicle, irrespective of". Ea - Refused 5/7 (1782)

139. Page 28A, line 33 by striking the word "value,".

140. Page 28B, by inserting after line 38 the

following:

"4. The theft of property exceeding fifty dollars in value but not exceeding one hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a serious misdemeanor."

141. Page 28B, line 39, by striking the words "one hundred" and by inserting in lieu thereof the word "fifty".

142. Page 28B, line 40, by striking the word "fourth" and by inserting in lieu thereof the word "fifth".

143. Page 28B, line 41, by striking the word "fourth" and by inserting in lieu thereof the word "fifth".

144. Page 28B, line 43, by inserting after the word "value" the words "within the community".

145. Page 29, line 5, by striking the words "acts shall" and inserting in lieu thereof the words "acts may".

EB - Concurred 5/7 (1782)

146. Page 29, line 5, by striking the words "value shall" and inserting in lieu thereof the words "value may".

147. Page 29, by striking lines 13 through 25.

148. Page 30, line 14, by striking the words "a violation of section one thousand four hundred".

149. Page 30, by striking line 15, and inserting in lieu thereof the word "theft.".

150. Page 32, line 3, by inserting after the word "execution." the following: "Writing includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification."

151. Page 34, line 24, by inserting after the word "altered," the word "or" and by striking the words ", or concealed".

152. Page 35, by inserting after line 32, the following:

"3. The term "trespass" shall not mean entering upon the property of another for the sole purpose of retrieving personal 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."

153. Page 36, by inserting after line 29 the following:

"Sec. ____. NEW SECTION. INJURIES TO DOGS OR CATS. It shall be unlawful for any peace officer or any person designated by a city or county as an animal control officer to kill or intentionally injure any dog or cat running loose within the city limits of a city, except a dog or cat which the officer has reason to believe is affected with hydrophobia or is an immeidate threat to the safety of a person or of some other animal, unless the officer has made a reasonable effort to determine whether or not the dog or cat is licensed. The officer or other person shall not be found to have made a reasonable effort unless the dog or cat has been provided food and shelter for a period of not less than three days during which the dog or cat is made available for recovery by its owner. Costs for shelter may be taxed to the owner as a condition of recovery of the animal. Nothing in this section shall prohibit the use of any tranquilizing device designed to immobilize and animal to facilitate its capture if the device is designed and used in a manner to prevent serious injury. Violation of this section is a simple misdemeanor."

154. Page 36, line 33, by striking the word "two" and inserting in lieu thereof the word "three".

155. Page 37, line 20, by striking the word "serious" and inserting in lieu thereof the word "simple".

156. Page 37, by inserting after line 27 the following new section:

"Sec. ____. NEW SECTION. FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES. A person who reports or causes to be reported false information to a fire department or a law enforcement authority, knowing that the information is false or who reports the alleged occurrence of a criminal act, knowing the same did not occur commits a simple misdemeanor."

157. Page 38, line 1, by striking the comma after the word "misdemeanor" and inserting in lieu thereof a period.

158. Page 38, by striking lines 2 through 4 and inserting in lieu thereof the following: "If a person commits an interference with official acts, as defined in this section, and in so doing he purposely inflicts or attempts to inflict serious injury, or displays a dangerous weapon, or is armed with a firearm, he commits an aggravated misdemeanor."

159. Page 38, by striking lines 25 through 28.

160. Page 39, line 14, by inserting after the word "escape" the words "or attempted escape". P Refused to concur 5/3 (1678)

161. Page 39, line 16, by striking the words "a class D felony." and inserting in lieu thereof the following: "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 felony other than a class A felony, the defendant commits a class D felony.

3. If the prisoner is in custody by reason of a conviction or charge of any public offense other than a felony, the defendant commits an aggravated misdemeanor."

162. Page 39, by striking lines 18 through 22 and inserting in lieu thereof the following: "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 he intends to facilitate the escape of any prisoner, or any person who, not being authorized by law, knowingly causes any such wea-".

163. Page 39, line 25, by striking the words "a class D felony." and inserting in lieu thereof the following: "the crime of assisting a prisoner to escape which is subject to the following penalties: Q Refused to concur 5/3

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 a reason of a conviction of any felony other than a class A felony, the defendant commits a class D felony.

3. If the prisoner was confined by reason of a conviction of any public offense other than a felony, the defendant commits an aggravated misdemeanor."

164. Page 40, line 30 by striking the word "said".

165. Page 41, line 13, by striking the words "will possibly" and inserting in lieu thereof the words "has been or may".

166. Page 41, line 30, by striking the words "him to be guilty" and inserting in lieu thereof the words "that the person committed the offense".

167. Page 41, by striking lines 31 through page 42, line 5.

168. Page 44, by striking lines 3 through 8 and inserting in lieu thereof the following: "person

with respect to his or her services in such capacity commits a class D felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state."

169. Page 44, by inserting after line 8 the following new section:

"Sec.____. NEW SECTION. ACCEPTING BRIBE. Any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or venireman, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board of arbitration who shall solicit or knowingly receive any promise or anything of value or any benefit given with the intent to influence the act, vote, opinion, judgment, decision or exercise of discretion of such person commits a class C felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state."

170. Page 44, line 10, by striking the word "corruptly".

171. Page 44, line 28 by striking the word "serious" and inserting in lieu thereof the word "aggravated".

172. Page 44, line 35 by striking the word "serious" and inserting in lieu thereof the word "aggravated".

173. Page 46, line 6, by striking the word "hearing" and inserting in lieu thereof the word "election".

174. Page 46, line 9, by inserting after the word "candidate" the words "or for or against any issue".

175. Page 46, lines 15 and 16 by striking the following: ", tumultuous or threatening". CM - Refused 5/6 (1753)

176. Page 46, lines 24 and 25 by striking the following: "; tumultuous or threatening".

177. Page 46, line 32, by striking the word "and" and inserting in lieu thereof the word "or".

178. Page 46, line 34, by inserting before the word "refuses" the word "who" and by striking the words "or willingly fails to obey".

179. Page 47, lines 3 and 4 by striking the following: ", tumultuous or threatening".

180. Page 47, by striking lines 11 through 13. CM - Refused 5/6 (1753)

181. Page 47, by striking lines 17 through 23.

182. Page 48, line 11, by inserting after the word "rifle" the following: ", cannon, pistol, revolver".

183. Page 48, line 16, by inserting after the

word "display" the words "or lawful shooting".

184. Page 48, line 26, by inserting after the word "weapon" the following: "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".

185. Page 48, line 29, by inserting after the word "require" the words "or permit".

186. Page 49, line 16, by inserting after the word "vehicle" the words "operated by the person". C01. Refused 5/6

187. Page 49, line 20, by inserting after the word "owned" the words "or possessed". C02 - Concurred 5/6 (1753)

188. Page 50, line 5, by inserting after the word "while" the words "engaged in lawful".

189. Page 50, line 24, by striking the words "sums of money" and inserting in lieu thereof the words "property of a value requiring security".

190. Page 51A, by striking all after the word "PROGRAM." in line 12, all of lines 13, 14, 15, 16 and 17, and through the period in line 18 and inserting in lieu thereof the following:

"A training program to qualify persons in the safe use of firearms shall be provided by the issuing officer of permits, as provided in section two thousand four hundred ten (2410) of this division. The commissioner of public safety shall approve the training program, and the county sheriff or the commissioner of public safety conducting the training program within their respective jurisdiction may contract with a private organization or use the services of other agencies, or may use a combination of the two, to provide such training."

191. Page 51A, line 20 by striking the word "shall" and inserting in lieu thereof the word "may".

192. Page 51A, lines 20 and 21, by striking the words "established by the commission, and".

193. Page 52, by inserting after line 4 the the following new subsection:

"5. The issuing officer reasonably determines from competent evidence that the applicant does not constitute a danger to himself or others."

194. Page 52, by adding after line 4 the following new subsection: "___. He has never been convicted of assault or other crime defined in Division VIII of this Act." R Concurred as amended 5647 (p. 1679)

195. Page 52, line 28, by inserting after the word "satisfied." the following: "However, the

training program requirements in section two thousand four hundred seven (2407) of this division may be waived for renewal permits."

196. Page 52, line 30, by inserting after the period the following: "Renewal permits shall be issued for a fee of one dollar."

197. Page 53, line 1, by inserting after the word "sells" the words "or transfers ownership of".

198. Page 53, lines 2 and 3, by striking the words "seventy-two hours" and inserting in lieu thereof the words "five days".

199. Page 53, line 3, by inserting after the word "sale" the words "or transfer".

200. Page 53, line 5, by inserting after the word "selling" the words "or transfer".

201. Page 53, line 7, by striking the word "purchaser" and inserting in lieu thereof the word "recipient".

202. Page 53, line 8, by striking line 8, and inserting in lieu thereof the words "the model, caliber, serial number, and make of such".

203. Page 53, line 21, by striking the word "dangerous weapon" and inserting in lieu thereof the word "firearm".

204. Page 53, line 22, by striking the words "dangerous weapon" and inserting in lieu thereof the word "firearm".

205. Page 53, lines 25 and 26, by striking the words "and hunting and fishing knives,".

206. Page 55, by inserting after line 5 the following new section:

"Sec. _____. A person who sells a revolver or pistol, whether such person is a dealer or otherwise, shall require any prospective purchaser to make application for the purchase of the revolver or pistol on forms provided by the department of public safety. The application shall include the name, address, social security number and any other information deemed necessary by the commissioner of public safety.

The seller may not transfer possession of such revolver or pistol before the expiration of five (5) days after the application for purchase.

Within seventy-two (72) hours after application for purchase of a revolver or pistol, the seller shall forward a copy of such application to the department of public safety."

207. Page 55, by inserting after line 10 the following new section:

"Sec. _____. NEW SECTION. DUTY TO CARRY PERMIT. It shall be the duty of any person

armed with a revolver, pistol, or pocket billy concealed upon his person to have in his immediate possession the permit provided for in this division and to produce same for inspection at the request of any peace officer. Failure to so produce such permit shall constitute a simple misdemeanor."

208. Page 55, by inserting after line 10 the following:

"Sec. 2419. NEW SECTION. FELONY DEFINED. As used in section two thousand four hundred twenty (2420) of this division the word "felony" means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year.

Sec. 2420. NEW SECTION. RECEIPT, TRANSPORTATION, AND POSSESSION OF FIREARMS AND DESTRUCTIVE DEVICES BY FELONS. Any person who is convicted of a felony in any state or federal court and who subsequently possesses, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a public offense and shall upon conviction be imprisoned in the penitentiary for not to exceed two years or be fined not to exceed ten thousand dollars or be subject to both such fine and imprisonment.

Sec. 2421. NEW SECTION. EXCEPTION. The provisions of section two thousand four hundred twenty (2420) shall not apply to a person who is pardoned by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices."

Adopted as amended by 5629 5/3 (16

Refused to concur
Motion to reconsider 5/5 (1729)
Reconsidered, 5629 lost, Senate concurred 5/7 (1797)

5629

209. Page 55, by striking lines 11 and 12 and inserting in lieu thereof the following:

"DIVISION XXV
VICE--PROMOTING PROSTITUTION--UNLICENSED MASSAGE

Sec. __. NEW SECTION. DEFINITIONS. For purposes of this division, unless the context otherwise requires:

1. "Massage" means the manipulation of body tissues either by the hands, with a mechanical or vibratory apparatus, by passive or resistive exercise or with use of heat lamps, salt glow, hot and cold packs or tub, shower or cabinet baths for hygienic, reducing or contouring purposes.

2. "Massage establishment" means a place of

CR - Refused 5/6 (1759)

5603

business where massage is practiced by licensed massage technicians.

3. "Massage technician" means an individual who practices massage and publicly professes to perform the functions incident to the practice of massage.

4. "Department" means the state department of health.

5. "Board" means the board of massage examiners.

Sec. __. NEW SECTION. EXEMPTIONS. The following classes of persons shall not be construed to be massage technicians:

1. Licensed physicians and surgeons, osteopaths, osteopathic physicians and surgeons, podiatrists, chiropractors, nurses, dentists, physical therapists, cosmetologists, and barbers who are engaged in the practice of their respective professions.

2. Students of massage who practice under the supervision of a licensed massage technician in connection with a regular course of instruction at an accredited school as determined by the board pursuant to chapter one hundred forty-seven (147) of the Code.

3. Nonprofessional workers in hospitals, clinics, offices, sanatoriums, or health care facilities as defined in section one hundred thirty-five C point one (135C.1), of the Code who perform their services under the supervision of a physician or a licensed physical therapist and who do not hold themselves out or accept employment as massage technicians.

4. An athletic coach or trainer who in the course of his employment practices massage in an accredited public or private secondary school, junior college, college or university or for a professional or semiprofessional athletic team or organization.

Sec. __. NEW SECTION. QUALIFICATIONS. Each applicant for a license to practice massage shall:

1. Have attained the age of eighteen years.

2. Hold a diploma from an accredited school as determined under sections one hundred forty-seven point thirty-two (147.32) and one hundred forty-seven point thirty-three (147.33) of the Code, which school requires a resident course of study in the theory, method, and practice of massage of not less than one thousand hours.

Sec. __. NEW SECTION. TEMPORARY LICENSE. A person who has continuously practiced massage in this state for five years prior to and who is practicing massage in this state on the effective date of this Act and who has not fulfilled the requirement for a diploma may apply for and be granted a license under

CR Refused

this Act, but the license obtained under this section shall expire on July 1, 1978.

Sec. __. NEW SECTION. STANDARDS FOR MASSAGE ESTABLISHMENTS. A person shall not operate, own, conduct or permit to be operated, owned, or conducted a massage establishment in this state unless the massage establishment complies with the following minimum standards:

1. The licenses of the massage technicians employed in the establishment are displayed in a conspicuous place.

2. A sign is posted at the main entrance identifying the establishment as a massage establishment.

3. The premises have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in the practice of massage. Such materials and instruments shall be disinfected after each use.

4. Hot and cold running water are provided at all times.

5. Closed cabinets are provided and used for the storage of all equipment, supplies and clean linens. All used disposable materials and soiled linens and towels shall be kept in covered containers or cabinets which shall be kept separate from clean storage areas.

6. Adequate dressing and toilet facilities and clean and sanitary towels and linens for patrons are provided.

7. The premises are equipped with a service sink for custodial services which shall be located in a room separate from massage service rooms.

The department may promulgate additional sanitary rules for the operation of a massage establishment. A person who fails to comply with the rules and standards of this section shall be notified in writing of such failure and if the rules and standards are not complied with in not more than sixty days after receiving written notice, the department shall order the massage establishment closed. The department shall enforce the provisions of this section and make all necessary inspections.

Sec. __. Terms of the initial members of the board shall be staggered so that one public member and one licensed member shall be appointed for terms of one year, one public member and one licensed member for terms of two years, and one licensed member for a term of three years.

Sec. __. NEW SECTION. PENALTY. A person who engages in the practice of a massage technician or

who owns, operates or maintains a massage establishment, as defined in this division, without having a license therefor commits a simple misdemeanor."

210. Page 55, line 21, by striking the word "an".

211. Page 55, by striking line 22 and inserting in lieu thereof the words "a class "D" felony."

212. Page 56, by inserting after line 3 the following new section:

"Sec. 2504A. NEW SECTION. PUBLIC INDECENT EXPOSURE. A holder of a liquor license or beer permit or any owner, manager, or person who exercises direct control over any licensed premises defined in section one hundred twenty-three point three (123.3), subsection thirty-one (31) of the Code shall be guilty of an aggravated misdemeanor under any of the following circumstances:

1. If such person allow or permit the actual or simulated performance of any sex act upon or in such licensed premises.

2. If such person allow or permit the exposure of the genitals or buttocks or female breast nipple of any person who acts as a waiter, waitress, or entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

3. If such person allow or permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals, buttocks, pubic hair or anus.

4. If such person allow or permit the displaying of films or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

Provided that the provisions of this section shall not apply to a theater, concert hall, or similiar establishment which is primarily devoted to theatrical performances and any of the circumstances contained in this section were permitted or allowed as part of such performances."

213. Page 56, lines 29 through 31, by striking the words "as an ancestor, descendent, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew" and inserting in lieu thereof the words "as an ancestor, spouse of an ancestor, aunt, uncle, brother or sister of the whole or half blood, spouse of a brother or sister of the whole or half blood, descendent, spouse of a descendent, stepchild, niece, nephew, mother-in-law or father-in-law".

ER - Refused

1 Refused to concur 5/3 (1480)
Motion to reconsider filed 5/4 (p. 1703)
Reconsidered and concurred 5/7 (1799)

5693

5712

5655
5669

21 Refused to concur 5/6 (1740)

214. Page 57A, by inserting after line 6 the following new section:

"Sec. ___. NEW SECTION. HUSBAND OR WIFE MAY BE WITNESS. In all prosecutions under section two thousand six hundred three (2603) of this Act, the husband or wife shall be a competent witness for the state and may testify to any relevant acts or communications between them, anything in previous statutes to the contrary notwithstanding, provided, however, that no husband or wife shall be called or compelled to testify against the other under section two thousand six hundred three (2603) of this Act except upon consent of such witness."

215. Page 57A, line 20, by inserting after the words "adoptive parent" the words "or person having custody".

216. Page 57A, line 25, by inserting after the words "adoptive parent" the words "or person having custody".

217. Page 58, line 19, by striking the word "no" and inserting in lieu thereof the word "nor".

218. Page 58, line 21, by inserting after the word "mercury" the words "nor caps used in cap pistols".

219. Page 58, line 25, by striking the words "town or the trustees of any township" and inserting in lieu thereof the words "the county board of supervisors".

220. Page 58, line 29, by striking the words ", town, or township authorities" and inserting in lieu thereof the words "or such county board of supervisors".

221. Page 60, by inserting after line 27 the following:

"Sec. ___. NEW SECTION. TRANSACTING BUSINESS WITHOUT A LICENSE. If any person carry on or transact any business or occupation without license for it, when such license is required by any law of the state, commits a simple misdemeanor." } 5637 5712

222. Page 61, line 9, by striking the word "statute" and inserting in lieu thereof the word "statue".

223. Page 61, line 21 by inserting after the word "simulated," the words "either natural or deviate,".

224. Page 61, line 22 by striking the words "either natural or deviate,".

225. Page 61, line 24, by inserting after the word "mouth" the words "or tongue".

226. Page 61, line 25, by inserting after the word "anus," the words "or by contact between a finger of one person and the genitalia of another

person".

227. Page 62, by inserting after line 5 the following:

Sec. _____. NEW SECTION. Any person who knowingly sells, gives, delivers, exhibits or displays, to any adult, material depicting sado-masochistic abuse, excretory functions, a sex act involving a minor, or a sex act involving any person and an animal which the average adult taking the material as a whole and applying contemporary community standards 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, shall upon conviction be guilty of a serious misdemeanor."

BA
Refused to concur 5/3 (1681)
Motion to reconsider 5/4 (1701)
Reconsidered, amended by S 7/7 and concurred in 5/7 (1801)

228. Page 65, line 15, by striking the words and figure "eighty point nine (80.9)" and inserting in lieu thereof the words and figure "ninety-seven A point one (97A.1),".

229. Page 65, lines 17 and 18, by striking the words and figure "section two hundred forty-seven point twenty (247.20) and".

230. Page 65, lines 23 and 24, by striking the words and figure "nineteen B point twelve (19B.12)" and inserting in lieu thereof the words and figure "eighteen point twelve (18.12)".

231. Page 65, lines 28 and 29, by striking the words and figure "eighty B point three (80B.3)" and inserting in lieu thereof the words and figure "one hundred seven point thirteen (107.13)".

232. Page 65, by inserting after line 29 the following new subsection:

"_____. Such employees of the department of transportation as are designated "peace officers" by resolution of the department under section three hundred twenty-one point four hundred seventy-seven (321.477), Code 1975."

233. Page 66A, by inserting after line 12 the following new paragraph:

"____. "Complaint" means a statement in writing, under oath or affirmation, made before a magistrate, of the commission of a public offense, and accusing someone thereof. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure."

234. Page 66A, by inserting after line 12 the following new paragraph:

"____. "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."

234. Page 66A, line 15, by striking the words "CRIMINAL HOMICIDE" and inserting in lieu thereof the word "MURDER".

235. Page 66A, line 16, by striking the words "criminal homicide" and inserting in lieu thereof the word "murder".

237. Page 66A, line 24 by inserting after the word "aggravated" the words "or serious".

238. Page 66A, line 27 by striking the words "or serious".

239. Page 69, line 24, by inserting after the word "shall" the words ", except as otherwise provided".

240. Page 69, by striking lines 25 through 29 and inserting in lieu thereof the word "person."

241. Page 70, line 5, by striking the words "in contempt".

242. Page 70, by striking lines 6 through 10 and inserting in lieu thereof the words "guilty of a simple misdemeanor and the magistrate may issue a warrant of arrest for the offense originally charged."

243. Page 71, line 2, by striking the words "of a defendant".

244. Page 71, line 3, by inserting after the word "cases," the word "an" and by striking the word "of".

245. Page 71, line 4, by striking the word "defendants".

246. Page 71, by striking lines 25 through 30. C 8 - Refused 5/6 (1760)

247. Page 72, by striking line 8 and inserting in lieu thereof the word "arrest."

248. Page 72, by striking lines 9 through 22.

249. Page 72, by striking lines 27 through 30 and inserting in lieu thereof the words "to make the arrest or which he reasonably believes to be necessary".

250. Page 73, line 12, by striking the words "FROM ARRESTING OFFICER".

251. Page 73, line 19 by striking the second word "of".

252. Page 73, line 20 by striking the words "his authority to make it".

253. Page 74, by striking lines 6 through 20. BB - Refused to concur (1681) 73

254. Page 74, line 28 by striking the word "weapons" and inserting in lieu thereof the words "items which are capable of causing bodily harm".

255 Page 74, line 29 by striking the words "about

his person" and inserting in lieu thereof the words "within his control".

256. Page 74, after line 30, insert the following:

"Sec. __. NEW SECTION. 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; one of which receipts he must deliver to the defendant, and the other he must forthwith file with the clerk of the district court of the county where the depositions and statements are to be sent by the magistrate."

257. Page 77, by striking lines 27 through 35.

258. Page 78, by striking lines 1 through 13.

259. Page 80, line 20, by striking the word "twelve" and inserting in lieu thereof the word "twenty".

260. Page 81, line 25, by striking the word "twelve" and inserting in lieu thereof the word "twenty".

261. Page 83, line 5, by striking the words "or other authorized person".

262. Page 83, by striking lines 11 and 12.

263. Page 83, line 19, by deleting the words "crime or".

264. Page 83, line 20, by deleting the words "a crime or" and inserting in lieu thereof the word "an".

265. Page 83, by striking line 24.

266. Page 83, line 33, by inserting after the word "searched" the words "and the property to be seized".

267. Page 83, line 35, by striking the words "The application".

268. Page 84, line 1, by striking the words "shall describe the property to be seized."

269. Page 84, line 20, by striking the words "In the case of".

270. Page 84, by striking lines 21 through 23."

271. Page 84, line 27, by striking the word "shall" and inserting in lieu thereof the word "may".

272. Page 85, line 2, by inserting after the word "been" the word "immediately".

273. Page 85, line 13, by striking the word "either" and inserting in lieu thereof the word "any".

274. Page 85, by inserting after line 17, the following:

"3. To remove any item which is capable of causing bodily harm that the person may use to resist arrest or effect his escape."

275. Page 85, by striking lines 34 and 35.

276. Page 86, by striking lines 1 through 4 and

CT & JK Concurred 5/6

inserting in lieu thereof the following:

"Sec. 809. NEW SECTION. SAFE-KEEPING 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 two (2), division nine (IX) of this Act."

27% Page 86, after line 11 insert the following:

"Sec. __. NEW SECTION. TRANSMISSION OF PAPERS TO DISTRICT COURT CLERK. The magistrate who has issued a search warrant shall attach to the warrant a copy of the return, inventory and all other papers in connection therewith and shall file them with the clerk of the district court for the county in which the property was seized."

27% Page 86, by inserting after line 11 the following new section:

"Sec. ___. NEW SECTION. DETENTION AND SEARCH IN SHOPLIFTING.

1. Persons concealing property as set forth in chapter one (1), section one thousand four hundred six (1406) of this Act, may be detained and searched by a peace officer, merchart, 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 two (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, merchant, or merchant's employee shall not render such peace officer, merchant, or merchant's employee liable, in a criminal or civil action, for false arrest or false imprisonment provided the peace officer, merchant, or merchant's employee had reasonable grounds to believe the person detained or searched had concealed or was attempting to conceal property as set forth in chapter one (1), section one thousand four hundred six (1406) of this Act."

27% Page 86, by striking lines 12 through 35. CT

28% Page 86, line 12, by inserting the following: CT Concurred 5/6

"DIVISION IX
DISPOSITION OF SEIZED PROPERTY

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et
Concurred
5/6

Sec. 901. NEW SECTION. SEIZED PROPERTY. For the purposes of this division, "seized property" means all property or any part thereof seized in the execution of a search warrant, arrest warrant, or arrest without warrant; and includes the following:

a. Property which has been obtained in violation of law.

b. Property, the possession of which is unlawful.

c. Property used or possessed with the intent to be used as the means of committing a public offense or concealed to prevent the offense from being discovered.

d. Property subject to forfeiture except such property described in chapters one hundred twenty-seven (127) and two hundred four (204), Code 1975.

e. Other property relevant and material as evidence in a criminal prosecution.

Sec. 902. NEW SECTION. NOTICE OF HEARING. The clerk of court shall issue a notice of a hearing, containing a reasonable description of the property and the time, place, and cause of its seizure, within forty-eight hours of the time of its seizure. Such notice shall be reasonably calculated to apprise affected persons of the pendency of the hearing.

Sec. 903. NEW SECTION. CLAIMANT. Any person claiming the right to possession of seized property may make application for its return in the office of the clerk of court for the county in which it was seized.

Sec. 904. NEW SECTION. HEARING. All claims made for the return of the seized property shall be set for hearing and such hearing shall be held not less than five nor more than thirty days after the filing of the first claim.

Sec. 905. NEW SECTION. RETURN.

1. Property not required for evidence or use in further investigation may be returned by the officer to the person from whom it was seized without the requirement of a hearing, providing that that person's right of possession is not prohibited by law.

2. In the event that the finding of the right to possess is in favor of a claimant, other than the state, the magistrate shall order the return of the property, providing that:

a. Possession of such property by the claimant is not prohibited by law; and

b. The property is not needed as evidence in any judicial proceedings; or, if needed, satisfactory arrangements have been made for its return for sub-

sequent use as evidence. If such proceedings have not been completed, the magistrate shall make satisfactory arrangements for return of the property upon their completion.

Sec. 906. NEW SECTION. OTHER DISPOSITION.

1. Forfeiture. Unless otherwise specified by law, the magistrate shall order the immediate destruction of all forfeited property of an illegal nature or character. When the forfeited property is not of an illegal nature or character, the magistrate shall order all such property or the proceeds of its sale to be applied to the court fund of the county.

2. No claimant. Where there is no claimant or where the right to possession cannot be determined, nonperishable property shall be held for a period of six months from the date of filing of the return, pending claim. Thereafter, the magistrate or other officer having the property in his or her custody shall, on payment of the necessary expenses incurred for its preservation, deliver it to the treasurer of the county, to be credited to the court fund.

Sec. 907. NEW SECTION. APPEAL. When the judgment of rightful possession or of forfeiture is not made by a district judge, appeal to a district judge may be made in the manner of other appeals from judgments of judicial magistrates. Such appeal shall be filed with the magistrate within two days of the judgment. The appellant, other than the state, shall post a bond in such a reasonable sum as the magistrate may fix and approve, conditioned to pay all costs of the proceedings in case the appellant is unsuccessful on appeal."

281. Page 87, by striking lines 1 through 17.

282. Page 87, line 21, by inserting after the word "includes" the words ", but is not limited to,".

283. Page 87, by striking lines 26 through 35.

284. By striking pages 88 through 89.

285. Page 90, by striking lines 1 through 18.

286. Page 94, by striking lines 23 through page 95, line 6.

287. Page 98, by striking lines 32 through page 102, line 3.

288. Page 102, by striking lines 15 through 25 and inserting in lieu thereof the following:

"Sec. ____. NEW SECTION. HEARING. The following procedures shall apply to detention hearings held pursuant to this subdivision:

1. The prosecuting attorney may initiate a detention hearing by ex parte written motion. Upon

such motion, the district court may issue a warrant for the arrest of the person, if the person is not in custody.

2. The detention hearing shall be held immediately upon the person being brought before the district court for such hearing unless the person or the prosecuting attorney moves for a continuance. A continuance granted on motion of the person shall not exceed three calendar days. A continuance on motion of the prosecuting attorney shall be granted only upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

3. The person shall be entitled to representation by counsel, including appointed counsel for indigent persons, and shall be entitled to the right of cross-examination and to present information, to testify, and to present witnesses in his own behalf.

4. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the formal rules of evidence.

5. Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, subject only to the following exceptions: Such testimony shall be admissible in proceedings under sections one thousand one hundred two (1102), subsection seven (7) and one thousand one hundred nine (1109) of this chapter, and in perjury proceedings.

6. Unless the defendant otherwise requests in writing, the district court shall conduct the hearing as a private hearing, and any order entered shall remain confidential as to the public generally until the conclusion of the trial.

7. Appeals from orders of detention may be taken in the manner provided under section one thousand one hundred two (1102), subsection six (6) of this chapter.

8. If the trial court issues an order of detention, it shall be accompanied by a written finding of fact and the reasons for the detention order.

9. For the purposes of such proceedings, the trial court is not divested of jurisdiction by the filing of a notice of appeal."

289. Page 102, by striking lines 31 through 33 and inserting in lieu thereof the following: "prevents him from appreciating the charge against him, understanding the proceedings, or assisting effectively in his defense, further proceedings must be suspended and a hearing had upon that question."

290. Page 103, line 33, by striking the word "division" and inserting in lieu thereof the word "section".

291. Page 104, line 2, by striking the word "court".

292. Page 104, line 4, by striking the words "district court judges".

293. Page 104, line 30, by striking the word "and".

294. Page 104, line 31, by inserting after the word "release" the words "and shall provide the defendant with a copy of the complaint".

295. Page 105, line 19, by inserting after the first word "hearing" the words "and inform the defendant of the date of the preliminary hearing".

296. Page 106, line 14, by inserting after the comma the words "a peace officer selected by the attorney representing the state,".

297. Page 107, line 4, by striking the word "court".

298. Page 112A, by striking lines 30 through 35 and inserting in lieu thereof the following:

"The grand jury shall meet at times specified by order of a district judge. In addition to those times, the grand jury shall meet at the request of the county attorney or upon the request of a majority of the grand jurors."

299. Page 114, line 29, by inserting after the word "name" the words "and if provided by law the degree".

300. Page 115, lines 9 and 10, by striking the words "or bill of particulars". CV - Refused 5/6/76

301. Page 116, line 9, by inserting after the word "names" the words ", occupations, and last known addresses".

302. Page 116, line 11 by striking the words "a minute of".

303. Page 116, by striking lines 12 through 14 and inserting in lieu thereof ", of each witness whose name is endorsed upon the information, a statement sufficient to enable the defendant to prepare his defense."

304. Page 116, by striking lines 15 and 16.

305. Page 116, line 17, by striking the words "jurisdiction of the offense" and inserting in lieu thereof the following:

"4. APPROVAL BY JUDGE. Prior to the filing of the information, a district judge or district associate judge having jurisdiction of the offense must approve the information by a finding that the evidence contained in the information and the minutes of testimony, if unexplained, would warrant a conviction by the trial jury."

306. Page 116, line 32, by inserting after the word "subpoenas" the words "including subpoena duces tecum,".

307. Page 117, by striking line 4, and inserting in lieu thereof the words "event disclosure shall be made".

308. Page 117, line 9, by inserting after the word "witnesses" the words "and any penalties for violations thereof".

309. Page 117, line 26, by striking the words "An included crime".

310. Page 117, by striking lines 27 through page 118A, line 9.

311. Page 122, line 5, by striking the words "not the result of coercion or threats," and inserting in lieu thereof the word "voluntary".

312. Page 124, line 11, by inserting after the word "particulars" the words "or a change of venue".

313. Page 124, line 14, by inserting after the word "for" the word "good".

314. Page 126, line 11, by striking the words "Such period shall be subject".

315. Page 126, by striking lines 12 and 13 and inserting in lieu thereof the following: "The new information or indictment must be filed within thirty days of the dismissal of the original indictment or information and the defendant must be brought to trial within the time limits specified in Rule 27, rules of criminal procedure."

316. Page 126, line 26, by inserting after the word "had" the words "before by reason of the prejudice of the judge, or to excitement or prejudice against the defendant in such county. The petition shall be verified on information and belief by the affidavit of the petitioners".

317. Page 128, by inserting after line 24 the following new subparagraph:

"(__) STATE'S RIGHT TO EXPERT EXAMINATION. Where a defendant has indicated the use of the defense of insanity, and has engaged an expert or experts for the purpose of examining him on the issue of insanity, the court shall order the examination of the defendant by a state-named expert or experts."

318. Page 128, line 25, by striking the words "; DISPOSITION OF EVIDENCE".

319. Page 128, by striking line 26.

320. Page 128, lines 28 and 29, by striking the words "the district court which has jurisdiction to try the aggrieved person".

321. Page 129, by striking lines 18 through page 130A, line 9.

322. Page 130A, by striking lines 16 through 35.
323. By striking pages 130B through 135B.
324. Page 136, by striking lines 1 through 34 and inserting in lieu thereof the following:

"Rule 12. DEPOSITIONS. A defendant in a criminal case, either after preliminary information, indictment, or information, may examine witnesses conditionally or on notice or commission, in the same manner and with like effect as in civil actions.

"1. TIME, PLACE AND MANNER OF DISCOVERY AND INSPECTION. An order of the court granting relief under this rule shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.

2. FAILURE TO COMPLY. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order such party to permit the discovery or inspection, grant a continuance, or prohibit the party from introducing any evidence not disclosed, or it may enter such other order as it deems just under the circumstances.

3. SECRECY OF GRAND JURY. Except where specific provisions require otherwise, grand jury proceedings remain confidential. However, any member of the grand jury and the clerk thereof, and any officer of the court, may be required by the court or any legislative committee duly authorized to inquire into the conduct or acts of any state officer which might be the basis for impeachment proceedings, to disclose the testimony of a witness examined before the grand jury for the purpose of ascertaining whether it is consistent with that given by him before the court or legislative committee, or to disclose the same upon a charge of perjury against the witness, or when in the opinion of the court or legislative committee such disclosure is necessary in the administration of justice. No grand juror shall be questioned for anything he may say or any vote he may give in the grand jury relative to a matter legally pending before it, except for perjury of which he may have been guilty in making an accusation, or in giving testimony to his fellow jurors."

Rule 13. PERPETUATING TESTIMONY. A person apprehensive of a criminal prosecution may perpetuate testimony in his or her favor in the same manner and with like effect, as may be done in apprehension of any civil action. The provisions

} 5663 5689 BE
Senate concurs as amended by 5663 and 5689. 5/ (p. 1741)
#5 BE 5/6 (1744) concurred
BE concurred

of rule twelve (12), subsections one (1), two (2), and three (3) shall apply to this rule."

325. Page 137, line 6, by striking the word "Subpoenas".

326. Page 137, by striking lines 7 through 9.

327. Page 137, line 26, by striking the words "A witness who is subpoenaed".

328. Page 137, by striking lines 27 and 28.

329. Page 137, by striking lines 29 through 35.

330. Page 138, by striking lines 1 through 3.

331. Page 138, line 4, by striking the letter "c" and inserting in lieu thereof the figure "4".

332. Page 138, line 8, by striking the letter "d" and inserting in lieu thereof the figure "5".

333. Page 138, line 9, by striking the words "without adequate excuse".

334. Page 138, line 12, by striking the word "attachment" and inserting in lieu thereof the word "warrant".

335. Page 144, by striking lines 19, 20, and 21.

336. Page 146, by striking lines 31 and 32 and inserting in lieu thereof the following:

"DURING DELIBERATIONS. Notes may be taken by jurors during the testimony of witnesses. All jurors shall have an equal opportunity to take notes. The court shall instruct the jury to mutilate and destroy any notes taken during the trial at the completion of the jury's deliberation. Upon retiring".

337. Page 151, line 20, by striking the words "under the fifth amendment to the Constitution".

338. Page 151, line 21, by striking the words "of the United States".

339. Page 152, by striking lines 8 through 19 and inserting in lieu thereof the following:

"(3) The county attorney or the attorney general may elect to grant the witness either of the following forms of immunity:

a. The witness may be granted immunity from prosecution for any public offense concerning which he was compelled to give competent and relevant testimony or to produce competent and relevant evidence, or

b. The witness may be granted immunity such that no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case.

However, neither of the preceding grants of

immunity shall apply to any prosecution or proceeding for a perjury or a contempt of court committed in the course of or during the giving of such testimony.

(4) Upon consideration of the application for immunity the judge shall enter an order granting the witness such immunity."

340. Page 153, by striking lines 18 through 23.

341. Page 153, line 30, by inserting after the word "thereof." the following:

"It shall not be a requirement of this section that corroboration be necessary to obtain a conviction where the solicited person is a law enforcement agent, employee, official, or person working on behalf of a law enforcement agency within the scope of his employment."

342. Page 154, by striking lines 5 through 8.

343. Page 155, line 27, by inserting after the words "a verdict" the word "unanimously" and by striking the words "with not more than".

344. Page 155, line 28, by striking the words "one dissenting vote".

345. Page 155, line 31, by striking the words "more than one" and inserting in lieu thereof the word "any".

346. Page 157, line 11, by striking the word "thereto" and inserting in lieu thereof the words "to a shorter time".

347. Page 158, by striking lines 32 through 35.

348. Page 159, by striking lines 1 through 9 and inserting in lieu thereof the following:

"The application for a new trial can be made only by the defendant and shall be made before judgment, but where based upon newly discovered evidence may be made after judgment as well. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In any case the court shall specify in the order the grounds therefor."

349. Page 160, line 35, by striking the words "and determined".

350. Page 161, by striking lines 3 through 5 and inserting in lieu thereof the following:

"c. ON MOTION OF COURT. The court may also, upon its own observation of any of these grounds, arrest the judgment on its own motion."

351. Page 162, line 23, by striking the words ", or reduce".

352. Page 162, by striking line 24.

353. Page 162, line 25, by striking the words "is

imposed, or".

354. Page 164, line 16, by inserting after the word "to" the words and figure "chapter two (2)".

355. Page 165A, line 26, by striking the words "or a judge".

356. Page 165A, by striking lines 30 through 35 and inserting in lieu thereof the following:

"d. The magistrate may cause to have removed from the courtroom any person whose exclusion is necessary to preserve the integrity or order of the proceedings."

357. Page 166A, line 24, by inserting after the word "shown" the words "or the defendant waives his right thereto". — BH - Refused to concur 5/6 (1742)

358. Page 166A, line 24, by striking the words "not admitted to". — BH-1 Refused to concur 5/6 (1742)

359. Page 166A, line 25, by striking the words "bail and unrepresented by legal counsel".

360. Page 166A, by striking line 32.

361. Page 166A, line 33, by striking the word "counsel".

362. Page 166A, lines 33 and 34, by striking the words "whose trial has not been postponed on his own application" and inserting in lieu thereof the words "has not waived his right to a speedy trial". — BH Refused 5/6 (1742)

363. Page 166B, by striking lines 38 through 44.

364. By renumbering the remaining subsections to accord with this amendment. — BH-2 Senate concurred 5/6 (1742)

365. Page 166B, by striking lines 54 through 63.

366. Page 170, by striking lines 17 through 26.

367. Page 170, by striking lines 27 through 30.

368. Page 183, line 9, by striking the words and figure "seven hundred fifty-three (753) of the Code" and inserting in lieu thereof the words and figures "two (2), division five (5) of this Act".

369. Page 184, by striking lines 12 through 15 and inserting in lieu thereof the words "prosecuting attorney of the trial date and shall advise the defendant that the trial will be without a jury unless demand for jury trial is made at least ten days prior to the date set for trial. Failure to make a jury demand in the manner".

370. Page 185, line 27, by striking the word "order" and inserting in lieu thereof the word "manner".

371. Page 187, line 10, by striking the word "its" and inserting in lieu thereof the words "the district." — DG - Concurred 5/6 (1761)

372. Page 189, lines 5 and 6, by striking the words "to him if required in the interest of justice" and inserting in lieu thereof the words "pursuant to the

grounds set forth in Rule 23, except that a motion for a new trial based on newly discovered evidence must be made within six months after the final judgment".

373. Page 191, by inserting after line 33 the following new section:

"Sec._____. NEW SECTION. ADDITIONS TO AND AMENDMENT OF RULES. The rules of criminal procedure may be amended, provisions deleted, and new rules added, in the manner prescribed for civil rules under chapter six hundred eighty-four (684) of the Code."

374. Page 198, line 28, by inserting after the word "court" the words "with the approval of the county board of supervisors".

375. Page 200, by striking lines 12 through 35 and inserting in lieu thereof the following:

"Sec.___. NEW SECTION. 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.

Sec.___. NEW SECTION. 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."

376. Page 201, by striking lines 1 through 35.

377. Page 202, by striking lines 1 through 7.

378. Page 213A, by striking lines 5 through 11.

379. Page 214, by striking from lines 24 and 25 the words "in the order presented below".

380. Page 215, lines 4 and 5, by striking the words and figures "two hundred seven (207) and two hundred nine (209)" and inserting in lieu thereof the words and figures "two hundred eight (208) and two hundred ten (210)".

381. Page 215, line 19, by inserting after the word "sentenced" the words "and a statement of the days credited pursuant to section two hundred forty-six point thirty-eight (246.38) of the Code shall be incorporated into the sentence".

382. Page 215, line 21, by striking the words "ninety days" and inserting in lieu thereof the words "one year".

383. Page 215, by striking lines 29 through 34.

384. Page 216A, line 12, by inserting after the words "to a term of years" the following:

"to be not less than ten years. If a person's sentence is so commuted, the person sentenced pursuant to this section shall not be eligible for parole until the person has served a minimum of ten years of the sentence imposed by law".

385. Page 216A, by striking lines 13 through 20. DF - Refused 5/4 (1772)

386. Page 216A, line 27, by striking the words and figure "two hundred ten (210)" and inserting in lieu thereof the words and figure "two hundred eleven (211)".

387. Page 216A, by inserting after the period in line 30 the following: "The court may in its discretion order the director of adult corrections to hold the offender in custody for a minimum period up to but not to exceed one-half of the maximum indeterminate sentence provided for by section two hundred eleven (211) of this division." BK Refused to concur 5/4 (1696)

388. Page 216A, line 32, by striking the word "fifty" and inserting in lieu thereof the word "ninety". W

389. Page 217A, by striking line 35 through page 218, line 2, and inserting in lieu thereof the following: >5697.

"Sec. ___. NEW SECTION. DANGEROUS OFFENDER. A dangerous offender is a person convicted of a class B felony who has previously been convicted of a felony involving death or serious injury or has previously been convicted of a felony involving the threat of death or serious injury."

390. Page 218 by inserting after the period on line 9 the following words: "A person sentenced as an incorrigible offender shall not be eligible for parole until he or she has served the minimum sentence of confinement of three years and the Court shall have the additional discretion and power of ordering an incorrigible offender to be held in custody for a minimum period up to, but not to exceed, four-tenths of the maximum indeterminate sentence for incorrigible offenders." BL Refused to concur 5/4 (1697)

391. Page 218, line 16, by striking the words "twenty-five" and inserting in lieu thereof the word "forty". W

392. Page 218, by inserting after line 16 the following:

"_. A class B felon shall be confined for no more than twenty-five years."

393. Page 218, by inserting after line 26 the following:

"Sec. _____Except as provided in Division VII BM Refused to concur 5/4 (1698)

of this chapter, when a judgment of conviction of a felony other than a class "A" felony is entered against any offender, the court in imposing a sentence of confinement shall sentence the offender to a term of not less than one-fourth of the maximum sentence."

394 Page 218, by striking lines 27 through 35.

395 Page 219, by striking lines 1 through 12 and inserting in lieu thereof the following:

"Sec. ____. NEW SECTION. APPLICATION FOR COMMITMENT. For the purposes of Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-nine (139), section six (6), the director of the division of corrections shall be considered an interested person and all applicable provisions of Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-nine (139), relating to involuntary hospitalization, shall apply to any persons who have been committed to the custody of the division of corrections as a result of a conviction of a public offense.

396 Page 219, by striking lines 13 through 33.

397 Page 220A, line 14, by striking the word "dollars;" and inserting in lieu thereof the word "dollars."

398 Page 220A, by striking lines 15 through 19.

399 Page 220A, by striking lines 33 through page 220B, line 38.

400 Page 220B, line 40, by striking the words "ninety days" and inserting in lieu thereof the words "one year".

401 Page 221, line 3, by striking the words "ninety days" and inserting in lieu thereof the words "one year".

402 Page 221, by striking lines 24 through 32 and inserting in lieu thereof the following:

"Sec. 401. NEW SECTION. BOARD OF PAROLE. The board of parole shall consist of five electors of the state. Not more than three members shall belong to the same political party. At least two members shall be practicing attorneys-at-law at the time of appointment. Each member shall serve for five years from July first of the year of appointment, except appointees to fill vacancies who shall serve for the balance of the unexpired term. The chairperson of the board shall be elected by the members of the board to a term of one year and may serve more than one term. A majority of the members of the board shall constitute a quorum to transact business."

403 Page 222, by striking lines 11 through 16

and inserting in lieu thereof the following:

"Sec. 403. NEW SECTION. TRANSITION. Persons serving on the board of parole on June 30, 1978 shall continue as members of the board of parole until they have served the term for which they were appointed with the conditions and salary of the initial appointment, and shall be deemed to fill a membership position as provided by section four hundred one (401) of this Act. Initial appointment to fill the additional membership positions created by section four hundred one (401) of this Act shall serve as follows:

1. One member shall serve until June 30, 1980.

2. The other member shall serve until June 30, 1983."

404. Page 222, by striking lines 17 through 28.

405. Page 223, line 4, by striking the word "two" and inserting in lieu thereof the word "four".

406. Page 223, by striking lines 14 through 19 and inserting in lieu thereof the following:

"Section 501. NEW SECTION. PROBATION AND PAROLE, SERVICE. Pursuant to designation by the court, parole and probation services shall be provided by the department of social services or by a local agency established under chapter two hundred seventeen (217) of the Code. Parole and probation officers shall perform the duties assigned to them by law and by the director of the agency by which they are employed."

407. Page 223, line 20, by inserting after the word "PAROLE" the words "AND PROBATION".

408. Page 223, line 20, by inserting after the word "Parole" the words "and probation".

409. Page 223, line 23, by inserting after the word "Parole" the words "and probation".

410. Page 223, line 27, by striking the word "the".

411. Page 223, line 28, by striking the word "his" and inserting in lieu thereof the words "each person's".

412. Page 223, line 29, by striking the word "him" and inserting in lieu thereof the word "that person".

413. Page 223, line 29, by inserting after the word "his" the words "or her".

414. Page 223, line 30, by striking the word "and" and inserting in lieu thereof the word "or".

415. Page 223, line 30, by inserting after the word "Parole" the words "and probation".

416. page 223, line 35, by inserting after the word "agencies" the words "which offer services of a corrective nature".

417. Page 225A, line 23, by striking the words

BN-1 concurred

DN #6 concurred 5/7 (1771)

DN #8 - Concurred 5/7 (1771)

"three years" and inserting in lieu thereof the words "one year".

418 Page 225A, by striking lines 31 through 35 and inserting in lieu thereof the following: "A person who is under consideration for parole shall be denied such parole unless that person has served at least one-half of the sentence imposed under section one (1) of this amendment."

419. Page 225B, by striking lines 36 and 37.

420. Page 225B, by striking lines 38 and 39.

421. Page 227A, by striking lines 5 through 9 and inserting in lieu thereof the following:

"Sec. 608 NEW SECTION. 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, money in accordance with the following schedule:

1. Upon discharge or parole, one hundred dollars.

2. Upon being placed on work release, fifty dollars.

3. Upon going from an educational work release to parole or discharge, fifty dollars.

Those inmates receiving payment under subsections two (2) or three (3) of this section shall not be eligible for payment under subsection one (1) of this section unless they are returned to the institution. The warden or superintendent shall maintain an account of all funds expended pursuant to this section."

422. Page 227A, by striking lines 18 through 23.

423 Page 228, lines 19 and 20, by striking the words "AND RESTORATION OF CIVIL RIGHTS".

424. Page 228, lines 30 through 32, by striking the words ", and shall have the effect of restoring the right to vote and hold public office, and the certification of discharge shall so state".

425. Page 229, line 12, by striking the words "by the probation" and inserting in lieu thereof the words "by probation".

426. Page 229, line 13, by striking the word "service" and inserting in lieu thereof the word "services".

427. Page 230, line 5, by striking the word and figure "seven (907)" and inserting in lieu

thereof the word and figure "eight (908)".

428. Page 230, line 8, by striking the words and figure "two hundred seven (207)" and inserting in lieu thereof the words and figure "two hundred eight (208)".

429. Page 232, by inserting after line 24 the following:

"2. Of any local agency established under chapter two hundred seventeen (217); or".

430. Page 232, line 25, by striking the figure "2" and inserting in lieu thereof the figure "3".

431. Page 234, by striking lines 3 through 6.

432. Page 234, line 7, by striking the words "prescribe. The".

433. Page 234, line 7, by striking the word "such" and inserting in lieu thereof the word "any".

434. Page 234, line 8, by inserting after the word "person" the words "assigned to a local correctional agency".

435. Page 234, line 8, by striking the word "he" and inserting in lieu thereof the words "that person".

436. Page 234, line 13, by striking the word "him" and inserting in lieu thereof the words "the person".

437. Page 237, by striking lines 26 through 35.

438. Page 238A, line 4, by striking the words "reasonable grounds" and inserting in lieu thereof the words "probable cause".

439. Page 238B, by striking lines 36 and 37 and inserting in lieu thereof the following: "probable cause hearing, a magistrate appointed pursuant to section six hundred two point fifty-one (602.51) of the Code".

440. Page 238B, line 45, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

441. Page 239, line 1, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

442. Page 239, line 3, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

443. Page 239, line 10, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

444. Page 239, line 12, by striking the words "LIAISON OFFICER" and inserting in lieu thereof the word "MAGISTRATE".

445. Page 239, line 15, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

DM
Concurred 5/7 (1771)

DQ
Concurred 5/7 (1771)

BM-2
Refused to concur 5/4 (1699)

5697

446. Page 239, line 18, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate". BN Refused

447. Page 239, line 23, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

448. Page 240, line 6, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate".

449. Page 240, by striking lines 8 and 9 and inserting in lieu thereof the following: "shall notify in writing the alleged violator, his attorney of record, if any, and the department of social services of such hearing and the claimed violation of parole. The alleged violator". #

450. Page 240, line 25, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate". BN Refused

451. Page 241, line 14, by striking the words and figures "section five hundred four (504)" and inserting in lieu thereof the words and figures "sections one hundred eight (108) and five hundred one (501)". # BN concurred 5/7 (177)

452. Page 241, line 15, by striking the words "reasonable grounds" and inserting in lieu thereof the words "probable cause". BR - concurred 5/7 (1771)

453. Page 242, line 9, by striking the words "liaison officer" and inserting in lieu thereof the word "magistrate". BN Refused

454. Page 247, by striking lines 22 through 35.

455. Page 248, by striking lines 1 through 18. #

456. Page 248 by striking lines 27 through page 249 line 6 and inserting in lieu thereof the following:

"Sec. ___. Section forty-eight point five (48.5), subsection three (3), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter eighty-one (81), section forty-nine (49) is amended to read as follows:

3. Neither the duplicate registration records open to public inspection nor any list obtained under subsection two (2) of this section shall be used for any purpose of any kind or nature, other than to request a registrant's vote at a primary or general election, or any other bona fide political purpose. The commissioner shall keep a list of the name, address, telephone number, and social security number of each person who copies or obtains copies of the registration lists. Any person that uses such lists in violation of this section shall, upon conviction, be ~~imprisoned in the county jail, not to exceed one year, or be fined not to exceed one thousand dollars,~~

~~or-by-both-such-fine-and-imprisonment,-for-each-vio-~~
~~lation~~ guilty of a serious misdemeanor."

457. Page 257, line 35, by striking the word "contri-" and inserting in lieu thereof the word "~~contri-~~".

458. Page 258, lines 1 through 3, by striking the words "bute to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or appointment to any political office," and inserting in lieu thereof the words "~~bute-to-the-campaign-fund-of-any-political-party,-or-to-the-campaign-fund-of-any-person-who-is-a-candidate-for-election-or-appointment-to-any-political-office,~~".

459. Page 268, by striking all of lines 11 through 16. DS - Refused 5/7(1771)

460. Page 269, by striking lines 17 through page 270 line 1.

461. Page 278, by striking lines 10 through 17 and inserting in lieu thereof the following: CT - Concurred 5/6

"Sec. 96. Sections one hundred ten point twenty (110.20) and one hundred ten point twenty-one (110.21), Code 1975, are amended by striking the sections and inserting in lieu thereof the following:

110.20 DISPOSITION OF SEIZED PROPERTY. Disposition of seized property shall be made in accordance with chapter two (2), division nine (IX) of this Act."

462. Page 288, by striking lines 29 through 35.

463. Page 289, by striking lines 1 and 2.

464. Page 291, by inserting after line 3 the following sections:

"Sec. ___. Section one hundred twenty-seven point seven (127.7), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.7 LIQUOR SUBJECT TO FORFEITURE. The court, upon conviction, shall enter a judgment of forfeiture of the liquor and vessels seized and shall file with the clerk of the district court a certified transcript of such order.

Sec. ___. Section one hundred twenty-seven point eight (127.8), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.8 DISPOSITION OF FORFEITED LIQUORS. When a judgment has been entered decreeing a forfeiture of any intoxicating liquors, the magistrate shall direct the disposition of such liquors and the vessels containing the same:

1. By ordering that forfeited intoxicating liquors, which have a valid unbroken federal liquor tax stamp properly affixed to the vessel and which the magistrate has no reason to believe is adulter-

ated or contaminated, be delivered to the Iowa beer and liquor control department.

2. By ordering the destruction of forfeited intoxicating liquors which do not have a valid federal liquor tax stamp properly affixed to the vessel or which the magistrate has reason to believe is contaminated or adulterated.

3. By ordering any portion thereof consisting of alcohol, brandies, wine, or whiskey, to be delivered, for medicinal or scientific purposes, to any state or reputable hospital in the county, or in adjoining counties, or to the board of control of state institutions, or to any reputable educational institution in the state for scientific purposes.

Sec. __. Section one hundred twenty-seven point nine (127.9), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.9 CONVEYANCE SUBJECT TO FORFEITURE. Any conveyance which is used to transport a quantity of unlawful liquor which is large enough to give rise to a presumption that the liquors are being transported for the purpose of sale and the transportation of such liquors is not incidental to the transportation of persons or other property is subject to forfeiture to the state."

4/25. Page 291, by striking lines 4 through 22, and inserting in lieu thereof the following:

"Sec. __. Section one hundred twenty-seven point eleven (127.11), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.11 PROCEDURE. Upon the filing of an information the procedure for forfeiting the conveyance shall be as follows:

1. Notice of the time and place of the forfeiture hearing shall be personally served upon all owners and lien holders of record of the seized conveyance at least thirty days prior to the date set for hearing. The notice shall contain a reasonable description of the conveyance and the time and place of its seizure.

2. Any person having a claim to the conveyance may file a claim with the clerk of court alleging his or her claim to the vehicle and the grounds relied upon in claiming that his or her property interest in the conveyance may not be forfeited.

3. The hearing shall be held before the district court in the county in which the conveyance was seized.

4. If a judgment of forfeiture is entered, the judgment shall state the value of the conveyance and

the amount forfeited and direct the sheriff to sell the conveyance as chattel under execution, and a certified copy of the judgment shall constitute an execution."

466. Page 291, by inserting after line 22 the following:

"Sec. ___. Section one hundred twenty-seven point twelve (127.12), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.12 BASIS OF FORFEITURE. An order of forfeiture may only be entered upon a finding by the court that all of the following are true:

1. The quantity of liquor transported is large enough to give rise to a presumption that the liquor was being transported for the purpose of sale.

2. The transportation of the liquor was not incidental to the transportation of persons or other property.

3. One of the owners or lien holders knew or consented to the transportation of the liquor.

Sec. ___. Section one hundred twenty-seven point thirteen (127.13), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.13 EFFECT OF FORFEITURE ON OWNERS AND LIEN HOLDERS. An order of forfeiture shall only be effective against the property interest of an owner or lien holder who knew or consented to the transportation of the liquor. The property interest of an owner or lien holder who did not consent or know of the transportation of the liquor shall not be affected by the order.

Sec. ___. Section one hundred twenty-seven point twenty (127.20), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.20 SALE OF CONVEYANCE. Prior to placing the conveyance for sale to the general public the sheriff shall permit any owner or lien holder having a property interest of fifty percent or more in the conveyance the opportunity to purchase the property interest forfeited. If such owner or lien holder does not exercise his or her option under this section or if no such owner or lien holder exists the conveyance shall be sold at public auction with the proceeds first being applied to the owners and lien holders who have not had their property interest forfeited and then applied to the expenses of keeping the conveyance and court costs.

Fee Refund

47. Page 296, by inserting after line 29 the following:

"Sec. ___. Section one hundred forty-seven point one (147.1), subsection two (2) and three (3), Code 1975, are amended to read as follows:

2. "Licensed" or "certified" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, pharmacist, physical therapist, massage technician, practitioner of cosmetology, practitioner of barbering, funeral director or embalmer shall mean a person licensed under this title.

3. "Profession" shall mean medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, pharmacy, physical therapy, massage, cosmetology, barbering, funeral directing or embalming.

Sec. ___. Section one hundred forty-seven point two (147.2), Code 1975, is amended to read as follows:

147.2 LICENSE REQUIRED. No person shall engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, massage, nursing, dentistry, dental hygiene, optometry, pharmacy, cosmetology, barbering, funeral directing or embalming as defined in the following chapters of this title, unless he shall have obtained from the state department of health a license for that purpose.

Sec. ___. Section one hundred forty-seven point three (147.3), Code 1975, is amended to read as follows:

147.3 QUALIFICATIONS. An applicant for a license to practice a profession under this title shall not be ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. Any board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of medicine, podiatry, osteopathy, osteopathy and surgery, chiropractic, nursing, psychology, optometry, pharmacy, physical therapy, massage, cosmetology, barbering or funeral directing or embalming for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

4 CR Refused

Sec. __. Section one hundred forty-seven point thirteen (147.13), Code 1975, is amended to read as follows:

147.13 DESIGNATION OF BOARDS. The examining boards provided in section 147.12 shall be designated as follows: For medicine and surgery, and osteopathy, and osteopathic medicine and surgery, medical examiners; for psychology, psychology examiners; for podiatry, podiatry examiners; for chiropractic, chiropractic examiners; for physical therapists, physical therapy examiners; for massage technicians, massage examiners; for nursing, board of nursing; for dentistry and dental hygiene, dental examiners; for optometry, optometry examiners; for cosmetology, cosmetology examiners; for barbering, barber examiners; for pharmacy, pharmacy examiners; for funeral directing and embalming, funeral director and embalmer examiners.

Sec. __. Section one hundred forty-seven point fourteen (147.14), subsection one (1), Code 1975, is amended to read as follows:

1. For podiatry, physical therapy, massage, cosmetology, barbering, and funeral directing and embalming, three members each, licensed to practice the profession for which the board conducts examinations, and two members who are not licensed to practice the profession for which the board conducts examinations and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

Sec. . Section one hundred forty-seven point eighty (147.80), Code 1975, is amended by adding the following new subsection:

NEW SUBSECTION. License to practice massage issued upon the basis of an examination given by the board of massage examiners, license to practice massage issued under a reciprocal agreement, renewal of a license to practice massage.

Sec. __. Section one hundred forty-eight A point three (148A.3), Code 1975, is amended by striking subsection five (5) and inserting in lieu thereof the following:

5. Licensed massage technicians who are engaged in the practice of massage."

468 Page 307, by striking lines 21 through 28. A

469 Page 317 by inserting the following after line 16: BO

New Section: Minimum Sentence. The court shall have the discretion of setting a minimum period a person will be held in custody of up to one-half the maximum indeterminate sentence for

Refused to concur 5/4 (1698)

persons convicted under section A and B of Section 224 unless the drug sold is a substance included in Schedule III, or is marijuana, or the sale was made in accommodation.

47c. Page 318, by inserting after line 6 the following new sections:

"Sec._____. Section two hundred four point four hundred one (204.401), Code 1975, is amended by striking subsection three (3) and inserting in lieu thereof the following:

3. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who is convicted of a violation of this subsection shall be punished as follows:

a. If the controlled substance is a controlled substance which is not marijuana, the person shall be guilty of a serious misdemeanor.

b. If the controlled substance is marijuana in an amount in excess of one ounce, the person shall upon conviction be sentenced to not more than six (6) months in a county jail or be fined not more than one thousand (1,000) dollars or be subject to both such fine and punishment.

c. If the controlled substance is marijuana in an amount of one ounce or less, and is for personal use only, the person shall upon conviction be guilty of a simple misdemeanor. All or any part of a sentence imposed pursuant to this paragraph may be suspended and the person placed on probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court. All records pertaining to arrests and prosecutions under this paragraph shall be expunged three years after the date of final judgement. A public agency shall not deny or limit any license or privilege to any person as a result of an arrest or prosecution for a violation of this paragraph.

Sec._____. Chapter seven hundred forty-nine B (749B), Code 1975, is amended by adding the following new section:

NEW SECTION. All other sections of this chapter notwithstanding, information pertaining to arrests

and prosecutions under paragraph c of subsection three (3) of section two hundred four point four hundred one (204.401) of the Code, shall not be made available to any other state or the federal government or any agency thereof, nor shall any other state or the federal government or agency thereof be allowed access to such information."

#71 Page 323, by striking lines 27 through 35.

#72. Page 324, by striking lines 1 through 4.

#73. Page 326, by striking lines 11 through 22.

#74. Page 328, by inserting after line 11 the following:

"Sec. ____. Chapter two hundred forty-five (245), Code 1975, is amended by adding the following new section:

NEW SECTION. FEDERAL PRISONERS. Convicts sentenced for any term by any court of the United States may be received by the superintendent into the women's reformatory and there kept in pursuance of their sentences. Convicts at the women's reformatory may also be transferred to the federal bureau of prisons."

#75. Page 328, by inserting after line 21, the following:

"Sec. ____. Section two hundred forty-six point eleven (246.11), Code 1975, is amended to read as follows:

246.11 FEDERAL PRISONERS. Convicts sentenced for any term ~~at hard labor~~ by any court of the United States may be received by the warden into the penitentiary or the men's reformatory and there kept in pursuance of their sentences. Convicts at either the penitentiary or men's reformatory may also be transferred to the federal bureau of prisons."

#76. Page 330, by striking all of lines 30 through 35.

#77. Page 331, by striking all of lines 1 through 7.

#78. Page 337, by striking lines 7 through 28 and inserting in lieu thereof the following:

"Sec. ___. Section three hundred twenty-one point two hundred eighty-one (321.281), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

321.281 OPERATING UNDER THE INFLUENCE.

1. Whoever operates a motor vehicle upon the public highways of this state under the influence of an alcoholic beverage, a narcotic, hypnotic or other drug, or having alcohol in their blood above the limits prescribed by this section shall be guilty of a public offense.

2. Any person who operates a motor vehicle upon the public highways of this state having ten or more

BP Refused 5662

BT - Concurred 5/7 (1772)

BQ Senate concurred as amended by 5/5 5657 (p. 1718)

5657 5658 5674

hundredths of one per centum by weight of alcohol in the blood shall upon a plea of guilty or conviction be guilty of a simple misdemeanor and shall be imprisoned in the county jail for not less than seven days.

3. Any person who operates a motor vehicle upon the public highways of this state having fifteen or more hundredths of one per centum by weight of alcohol in the blood shall upon a plea of guilty or conviction be guilty of a serious misdemeanor.

4. Any person who operates a motor vehicle upon the public highways of this state having more than nineteen hundredths of one per centum by weight of alcohol in the blood shall upon a plea of guilty or conviction be guilty of a serious misdemeanor and, upon a third offense of this section, be guilty of an aggravated misdemeanor.

5. Any person who violates the provisions of subsection one (1) of this section and is not subject to the provisions of subsections two (2), three (3), or four (4) of this section shall upon a plea of guilty or conviction be guilty of a serious misdemeanor for the first offense, be guilty of an aggravated misdemeanor for the second violation of this section, and be guilty of a class "D" felony for the third violation of this section.

6. The court in pronouncing sentence shall provide as to the period during which a new license to operate a motor vehicle shall not be issued to the defendant. Notwithstanding the provisions of section three hundred twenty-one point two hundred twelve (321.212) of the Code, the period for violation of subsection two (2) of this section shall not be less than one hundred twenty days, the period for violation of subsection three (3) of this section shall be one year, the period for violation of subsection four (4) of this section shall be five years, and the periods for violation of subsection five (5) of this section shall be not less than one hundred twenty days for the first violation and shall be one year for the second violation of this section; and upon a third violation of this section the defendant shall never be issued a new license. All periods of license ineligibility shall be consecutive. The clerk of the court shall forthwith certify to the department a true copy of the judgment sentencing the defendant under this section. The department may receive an application for and shall grant a new license at the expiration of the period provided in the judgment of the court notwithstanding the provisions of sections three

BQ
Sent
concurred
as amended
by 5657
5/5 (17/8)

hundred twenty-one point one hundred seventy-seven (321.177) and three hundred twenty-one point two hundred twelve (321.212) of the Code.

7. This section shall not apply to a person operating a motor vehicle while under the influence of a narcotic, hypnotic or other drug if such substances were prescribed for such person and have been taken under such prescription and in accordance with the directions of a reputable doctor of medicine, provided however there is no evidence of the consumption of alcohol and further provided said doctor of medicine has not directed such person to refrain from operating a motor vehicle.

8. In lieu of, or prior to imposition of, the punishment above described for the first and second offense, the court upon hearing may commit the defendant for treatment of alcoholism or drug addiction or dependency to any hospital or institution in Iowa providing such treatment. The court may prescribe the length of time for such treatment or it may request that the hospital to which the person is committed immediately report to the court when the person has received maximum benefit from the program of the hospital or institution or has recovered from his addiction, dependency or tendency to chronically abuse alcohol or drugs. A person committed under this section shall be considered a state patient."

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"79. Page 340, by inserting after line 6 the following:

"Sec. ____. Section three hundred twenty-one B point seven (321B.7), Code 1975, is amended to read as follows:

321B.7 REFUSAL TO SUBMIT. If a person under arrest refuses to submit to the chemical testing, no test shall be given, but the director, upon the receipt of a sworn report of the peace officer that he had reasonable grounds to believe the arrested person to have been operating a motor vehicle upon a public highway of this state while under the influence of an alcoholic beverage, that he had placed such person under arrest for the offense of operating a motor vehicle while under the influence of an alcoholic beverage and that the person had refused to submit to the chemical testing, shall, notwithstanding the provisions of section three hundred twenty-one point two hundred twelve (321.212) of the Code, revoke his license or permit to drive and any nonresident operating privilege for a period of not less than one hundred twenty days nor more than one year if the person does not have a prior conviction

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under the provisions of section three hundred twenty-one point two hundred eighty-one (321.281) of the Code, for a period of one year if the person has a prior conviction under the provisions of section three hundred twenty-one point two hundred eighty-one (321.281) of the Code, and permanently if the person has two prior convictions under the provisions of section three hundred twenty-one point two hundred eighty-one (321.281) of the Code; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit within one year from the date of the alleged violation, subject to review as hereinafter provided. The effective date of any such revocation shall be twenty days after the director has mailed notice of such revocation to such person by registered or certified mail."

BQ Senate concurred as amended 5657 by 5/5 (17-

5671, 5673

480. Page 345, by striking lines 9 through 27, and inserting in lieu thereof the following:

"Sec. ___. Section three hundred twenty-six point twenty-seven (326.27), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seventy-three (173), section nine (9) is amended to read as follows:

326.27 VIOLATIONS TO NEGATE AGREEMENTS. Operation of a commercial vehicle or vehicles in violation of the requirements of this chapter, the motor vehicle registration laws of this state, or the terms of any agreement negotiated by the department pursuant to this chapter may, after due notice and hearing, be grounds for denial of reciprocal or proportional registration privileges on the vehicle or vehicles of an owner so operated. Any owner denied such reciprocal or proportional registration privileges shall be subject to payment of full anual Iowa registration fees on any such vehicle operated on Iowa highways. In addition to denial of reciprocal or proportional registration privileges, it shall be a simple misdemeanor ~~punishable upon conviction by a fine of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days~~, unless such act is declared under Iowa law to be a felony, for any person to operate under reciprocity or proportional registration in violation of any requirements of this chapter."

5712

481. Page 353, by striking lines 11 and 12 and inserting in lieu thereof the following:

"Sec. ___. Section three hundred sixty-four point five (364.5), unnumbered paragraph one (1), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred three (203), section thirteen (13) is amended to read as follows:"

482. Page 369, by striking lines 26 through 29 and inserting in lieu thereof the words "who shall willfully obstruct ~~it or its members~~ the department or board in the performance of their duties, or who shall refuse to give any information within ~~his~~ the person's possession that may be required by ~~it within the line of its duty~~ the department or board for the performance of their duties, shall be ~~fined not to exceed~~".

483. Page 369, by striking line 32 through page 370, line 6.

484. Page 370, by striking lines 9 through 18 and inserting in lieu thereof the following:

"477.15 VIOLATIONS. Any railroad corporation, ~~company, or person~~ operating ~~a railroad in this state and using a locomotive engine, or running a train of cars,~~ or using in this state any train, engine, freight, car way, caboose, or other car contrary to the provisions of sections 477.12 to 477.44 four hundred seventy-seven point thirteen (477.13) of the Code shall be guilty of a serious misdemeanor, ~~and shall be subject to a fine of not less than five hundred nor more than one thousand dollars for each and every offense, but such penalties shall not apply to companies hauling cars belonging to railroads other than those of this state which are engaged in interstate traffic.~~"

485. Page 370, by striking lines 21 and 22 and inserting in lieu thereof the following:

"477.19 VIOLATIONS. Any ~~person, railway company, terminal transfer, or other~~ corporation ~~or company~~ who which violates".

486. Page 370, by striking lines 29 through 34.

487. Page 371, by striking lines 2 through 4 and inserting in lieu thereof the following:

"477.24 VIOLATIONS. Any ~~person, firm, or~~ railroad corporation owning such line of railway or the equipment operated thereon, who which shall cause or permit any locomotive, power vehicle, power".

488. Page 371, by striking lines 19 through 28.

489. Page 371, line 31, by striking the word "company" and inserting in lieu thereof the words "~~company~~ corporation".

490. Page 372, by striking lines 2 through 30.

491. Page 373, by striking lines 1 through 9.

492. Page 373, line 12, by inserting after the word

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"railroad" the word "corporation".

493. Page 373, line 26, by inserting after the word "railroad" the word "corporation".

494. Page 373, by striking lines 33 through 35 and page 374 by striking lines 1 and 2 and inserting in lieu thereof the following:

"478.10 FAILURE TO FENCE--GENERAL PENALTY. If the railroad corporation~~,-officer-thereof-or-lessee owning-or-engaged-in-the-operation-of-any-railroad in-the-state~~ refuses or neglects to comply with any provision of this chapter relating to the fencing of the tracts, such railroad corporation~~,-officer,-or-lessee~~".

495. Page 374, line 11, by striking the word "company" and inserting in lieu thereof the words "~~company~~ corporation".

496. Page 374, by striking lines 14 through 24.

497. Page 374, by striking lines 25 through 35 and page 375, by striking lines 1 through 7.

498. Page 375, by striking lines 8 through 21, and inserting in lieu thereof the following:

"Sec. ___. Section four hundred seventy-nine point twenty-nine (479.29), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seventy (170), section twenty-seven (27) is amended to read as follows:

479.29 PENALTY FOR DISCRIMINATION. Any such corporation guilty ~~of-extortion~~, ~~or~~ of making any unjust discrimination as to freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freights, ~~shall,-upon-conviction-thereof,-be-fined-in-any-sum not-less-than-one-thousand-dollars-nor-more-than-five thousand-dollars-for-the-first-offense,-and-for-each subsequent-offense-not-less-than-five-thousand-nor more-than-ten-thousand-dollars--such-fine-to-be-imposed in-a-criminal-prosecution-by-indictment~~ be guilty of an aggravated misdemeanor; or shall be subject to the liability prescribed in section 479.30, to be recovered as therein provided."

499. Page 376, by striking line 2 through page 377 line 2.

500. Page 377, by striking lines 13 through 25.

501. Page 377, by striking lines 26 through 35.

502. Page 379, by striking line 29 through page 380 line 1.

503. Page 413, by striking line 5 through line 14. — 5712

504. Page 413, by striking line 15 through line 21, and inserting in lieu thereof the following:

"Sec. 492. Section five hundred ninety-five point nine (595.9), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred forty-four (244), section three (3), is amended to read as follows:

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 ~~and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days.~~"

505. Page 417, by inserting after line 8 the following:

"Sec. ____. Section six hundred nine point twenty-six (609.26), Code 1975, is amended to read as follows:

609.26 MAXIMUM SERVICE PERMITTED. ~~No~~ Except as provided in Rule three (3), subsection three (3), paragraph a of the rules of criminal procedure, no person on the list of grand jurors shall be eligible to serve as a grand juror except for one calendar year of the biennial period for which the list is made."

506. Page 420, by inserting after line 25 the following:

"Sec. ___. Section seven hundred twenty-six point four (726.4), Code 1975, is amended to read as follows:

726.4 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 754~~ division nine (IX) of chapter two (2) of this Act."

507. Page 421, by inserting after line 29 the following:

"Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter ninety-nine (99), section twenty-three (23), is amended to read as follows:

SEC. 23. Chapter seven hundred twenty-six (726), Code 1975, is amended by adding the following new section:

NEW SECTION. PENALTY. A person who commits an offense declared in this chapter or chapter ninety-nine B (99B) of the Code to be a misdemeanor shall be ~~subject to imprisonment in the county jail for a period not exceeding one year, or to a fine not~~

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~~exceeding one thousand dollars, or to both fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter ninety-nine (99), section twenty-four (24) is amended to read as follows:

SEC. 24. Chapter seven hundred twenty-six (726), Code 1975, is amended by adding the following new sections:

NEW SECTION. 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 ninety-nine B (99B) of the Code commits ~~a felony punishable by a fine not to exceed five thousand dollars or by imprisonment for a term not to exceed two years, or by both fine and imprisonment~~ an aggravated misdemeanor.

NEW SECTION. COLLECTION SERVICE PROHIBITED. Any person who knowingly offers, gives or sells his or her services for use in collecting or enforcing any debt arising from gambling, whether or not lawful gambling, commits ~~a felony, punishable by a fine not to exceed five thousand dollars or by imprisonment for a term not to exceed two years, or by both fine and imprisonment~~ an aggravated misdemeanor.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred (100), section one (1), unnumbered paragraph three (3) is amended to read as follows:

Any person violating the provisions of this Act is guilty of a simple misdemeanor ~~and shall, upon conviction, be subject to a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days, or be subject to both such fine and imprisonment~~.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirteen (113), section four (4) is amended to read as follows:

SEC. 4. Chapter one hundred ten B (110B), Code 1975, is amended by adding the following new section:

NEW SECTION. PENALTY. Any person violating any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and, upon conviction, shall be fined not less than ten dollars nor more than one hundred dollars or imprisoned in the county jail for not more than thirty days~~.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-two (132), section six (6), is amended to read as follows:

SEC. 6. NEW SECTION. OFFENSES AND PENALTIES.

1. A person who is convicted of violating section two (2) of this Act ~~may be sentenced to a fine not to exceed one hundred dollars, or to imprisonment in the county jail for a period not to exceed thirty days, or both the fine and imprisonment~~ is guilty of a simple misdemeanor.

2. A person who makes or utters a tranportation certificate with knowledge that some or all of the information contained in the certificate is false,

or a person who alters, forges, or counterfeits a transportation certificate, or the receipt prescribed in section four (4) of this Act, ~~commits a public offense and upon conviction may be sentenced to a term in the state penitentiary not to exceed ten years, to a fine not to exceed five thousand dollars, or to both the fine and imprisonment~~ is guilty of a class C felony.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred forty-four (144), section ten (10), unnumbered paragraph one (1), is amended to read as follows:

A person who establishes, conducts, manages, or operates a center without a license shall be guilty of a serious misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, shall be considered a separate offense.

Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred fifty (250), section two (2), subsection four (4), is amended to read as follows:

4. A person who violates the provisios of this section is guilty of a serious misdemeanor."

108. Page 421, by inserting after line 29 the following new sections:

"Sec. ___. Section seven hundred fifty-three point

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nine (753.9), Code 1975, is amended to read as follows:

Except for citations for ~~traffic violations~~ nonindictable misdemeanors where the violator has submitted bond, any person who willfully fails to appear in court as specified by the citation shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment. ~~Failure to appear in response to a citation for a traffic violation shall be governed by section 321.487.~~

In a case, other than one which alleges the commission of a nonindictable misdemeanor and in which bond has been submitted, 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 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 citation attached to the law enforcement agency which issued the original citation for enforcement of the warrant. Upon arrest of the defendant, the warrant and the original citation shall be returned to the court, and the offenses shall be heard and disposed of simultaneously.

In a case which alleges the commission of a nonindictable misdemeanor and in which the violator has submitted bond by cash, check, or guaranteed arrest bond certificate as defined in section three hundred twenty-one point one (321.1) of the Code, where a defendant fails to make a required court appearance the court shall order a forfeiture of the bond as provided in section seven hundred sixty-six point seven (766.7) of the Code.

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Sec. ___. Section seven hundred fifty-three point thirteen (753.13), Code 1975, and the division title immediately preceding that section are amended to read as follows:

~~TRAFFIC~~ SCHEDULED VIOLATIONS

753.13 UNIFORM CITATION AND COMPLAINT.

1. The commissioner of public safety and the state conservation director, acting jointly, shall adopt a uniform, combined ~~traffic~~ citation and complaint, which shall be used for charging all traffic violations in Iowa under state law or municipal ordinance, unless the defendant is charged by information or unless section 321.236, subsection 1, is applicable, and which shall be used for charging all other violations

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of state law which are designated by section seven hundred fifty-three point fifteen (753.15) of the Code to be scheduled violations. Each citation and complaint shall be serially numbered and shall be in quadruplicate, and the officer shall deliver the -5692 original and a copy to the court where the defendant is to appear, a copy to the defendant, and a copy - 5692 to the law enforcement agency of the officer. The court shall forward the copy of the citation and complaint in accordance with section 321.207, when applicable. The citation and complaint shall contain, among other things, spaces for the parties' names and for the information required by ~~section~~ sections 321.485, subsection 2 and seven hundred fifty-three point six (753.6) of the Code; 5692 a place where the defendant may sign the promise to appear referred to in ~~section~~ sections 321.486 and seven hundred fifty-three point seven (753.7) of the Code; 5692 a list of the ~~minimum~~ scheduled fines prescribed by section 753.15, either separately or by groups; a brief explanation of sections 753.16 and 753.17; and a space where the defendant may sign an admission of the violation when such section 753.16 is applicable. Every citation and complaint shall require the defendant to appear before a court at a specified time and place. Notwithstanding section 321.485, subsection 2, the officer may arrest the defendant although a citation and complaint is used to charge the violation, if authorized by section 755.4. -5692

2. Supplies of the uniform ~~traffic~~ citation and complaint for municipal corporations and county agencies shall be paid for out of the court expense fund of the county. Supplies of the uniform ~~traffic~~ citation and complaint for all other agencies shall be paid for out of the budget of the agency concerned.

3. The uniform citation and complaint shall contain a place for the verification of the officer issuing the citation. The complaint may be verified before the chief officer of the law enforcement agency or his designee, and the chief officer of each law enforcement agency of the state is authorized to designate specific individuals to administer oaths and certify verifications. Nothing in this section shall be deemed to invalidate forms of uniform citation and complaint in existence prior to July 1, ~~1974~~ 1976, -5692 and existing forms may be used until supplies are exhausted.

4. The commissioner of public safety and the state conservation director, acting jointly, shall design and publish a compendium of scheduled violations and

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scheduled fines and costs, 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 conservation commission, 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.

Sec. ___. Section seven hundred fifty-three point fourteen (753.14), Code 1975, is amended to read as follows:

753.14 ~~TRAFFIC~~ SCHEDULED VIOLATIONS OFFICES--FINE COLLECTION BOXES. 5692

1. OFFICES. Each district court clerk's office shall constitute a ~~traffic~~ scheduled violations office of the district court. Additional ~~traffic violations~~ offices may be established at other locations, as needed, if authorized by the chief judge of the district. 5692

2. COLLECTION BOXES. The chief judge of the district may permit the maintenance of locked collection boxes to be used at weigh stations. Such boxes shall be used solely for the deposit of fines and costs received upon written admissions of those scheduled violations ~~respecting weight and other nonmoving scheduled violations applicable to commercial carriers~~ which otherwise may be mailed or delivered to a violations office pursuant to section seven hundred fifty-three point sixteen (753.16) of the Code. The collection boxes shall remain locked at all times and shall be opened only by the clerk of the district court or his designee. The chief judge of the district may prescribe procedures for the system and may discontinue its use if necessary. 5692

Sec. ___. Section seven hundred fifty-three point fifteen (753.15), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter sixty-seven (67), section fifty-six (56), is amended by striking the section and inserting in lieu thereof the following:

753.15 SCHEDULED VIOLATIONS.

1. Except as otherwise indicated, violations of sections of the Code specified in this section shall be scheduled violations, and the scheduled fine for each of those violations shall be as provided in this section, whether the violation is of state law or

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of county or city ordinance.

2. TRAFFIC VIOLATIONS.

a. For parking violations under sections three hundred twenty-one point two hundred thirty-six (321.236), three hundred twenty-one point two hundred thirty-nine (321.239), three hundred twenty-one point three hundred fifty-eight (321.358), three hundred twenty-one point three hundred sixty (321.360), and three hundred twenty-one point three hundred sixty-one (321.361) of the Code, the scheduled fine is five dollars: However, violations charged by a city upon simple notice of a fine instead of a uniform citation and complaint as permitted by paragraph a of subsection one (1) of section three hundred twenty-one point two hundred thirty-six (321.236) of the Code are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under sections one hundred eleven point thirty-eight (111.38) or three hundred twenty-one point three hundred sixty-two (321.362) of the Code the scheduled fine is ten dollars.

b. For registration violations under sections three hundred twenty-one point seventeen (321.17), three hundred twenty-one point thirty-two (321.32), three hundred twenty-one point thirty-four (321.34), three hundred twenty-one point thirty-seven (321.37), three hundred twenty-one point thirty-eight (321.38), three hundred twenty-one point forty-one (321.41), three hundred twenty-one point ninety-eight (321.98) and three hundred twenty-one point one hundred ninety (321.190) of the Code, the scheduled fine is five dollars. For violations of section three hundred twenty-one point one hundred ninety (321.190) of the Code, the case shall be dismissed without imposition of fine or costs if a license valid at the time of the issuance of the citation is presented by the defendant to the magistrate or scheduled violations office.

c. For improperly used or nonused, or defective or improper equipment, other than brakes, driving lights and brakelights, under sections three hundred twenty-one point three hundred seventeen (321.317), three hundred twenty-one point three hundred eighty-seven (321.387), three hundred twenty-one point three hundred eighty-eight (321.388), three hundred twenty-one point three hundred eighty-nine (321.389), three hundred twenty-one point three hundred ninety (321.390), three hundred twenty-one point three hundred ninety-one (321.391), three hundred twenty-one point three hundred ninety-two (321.392), three hundred

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twenty-one point three hundred ninety-nine (321.399), three hundred twenty-one point four hundred twenty-two (321.422), three hundred twenty-one point four hundred thirty-two (321.432), three hundred twenty-one point four hundred thirty-five (321.435), three hundred twenty-one point four hundred thirty-six (321.436), three hundred twenty-one point four hundred thirty-seven (321.437), three hundred twenty-one point four hundred thirty-eight (321.438), three hundred twenty-one point four hundred thirty-nine (321.439), three hundred twenty-one point four hundred forty (321.440), three nundred twenty-one point four hundred forty-one (321.441), three hundred twenty-one point four hundred forty-two (321.442), three hundred twenty-one point four hundred forty-four (321.444), three hundred twenty-one point four hundred forty-five (321.445), and three hundred twenty-one point four hundred forty-seven (321.447) of the Code, the scheduled fine is ten dollars.

d. For improperly used or nonused or defective or improper equipment under sections three hundred twenty-one point three hundred eighty-three (321.383), three hundred twenty-one point three hundred eighty-four (321.384), three hundred twenty-one point three hundred eighty-five (321.385), three hundred twenty-one point three hundred eighty-six (321.386), three hundred twenty-one point three hundred ninety-eight (321.398), three hundred twenty-one point four hundred (321.400), three hundred twenty-one point four hundred two (321.402), three hundred twenty-one point four hundred three (321.403), three hundred twenty-one point four hundred four (321.404), three hundred twenty-one point four hundred nine (321.409), three hundred twenty-one point four hundred fifteen (321.415), three hundred twenty-one point four hundred nineteen (321.419), three hundred twenty-one point four hundred twenty (321.420), three hundred twenty-one point four hundred twenty-three (321.423), three hundred twenty-one point four hundred thirty (321.430), three hundred twenty-one point four hundred thirty-three (321.433), three hundred twenty-one point four hundred forty-eight (321.448), three hundred twenty-one point four hundred forty-nine (321.449), and three hundred twenty-one point four hundred fifty (321.450) of the Code the scheduled fine is twenty dollars. } 5692

e. For violations of a restricted license under sections three hundred twenty-one point one hundred eighty (321.180), three hundred twenty-one point one hundred ninety-three (321.193), and three hundred twenty-one point one hundred ninety-four (321.194)

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of the Code the scheduled fine is twenty dollars.

f. For excessive speed violations when not more than ten miles per hour in excess of the limit under sections one hundred eleven point thirty-six (111.36), three hundred twenty-one point two hundred thirty-six (321.236), subsections five (5) and eleven (11), three hundred twenty-one point two hundred eighty-five (321.285), three hundred twenty-one point two hundred eighty-six (321.286), and three hundred twenty-one point two hundred eighty-seven (321.287) of the Code, the scheduled fine is ten dollars.

Excessive speed in conjunction with a violation of section three hundred twenty-one point two hundred seventy-eight (321.278) of the Code is not a scheduled violation, whatever the amount of excess speed.

For excessive speed violations when in excess of ten but not more than twenty miles per hour in excess of the limit under those sections, the scheduled fine is thirty dollars: However, speed more than ten miles per hour in excess of the speed limit by the operator of a school bus is not a scheduled violation. Excessive speed more than twenty miles per hour in excess of the limit is not a scheduled violation. 5642

g. For operating, passing, turning and standing violations under sections three hundred twenty-one point two hundred twenty-five (321.225), three hundred twenty-one point two hundred thirty-six (321.236), subsections three (3), four (4), nine (9) and twelve (12), three hundred twenty-one point two hundred seventy-five (321.275), three hundred twenty-one point two hundred ninety-five (321.295), three hundred twenty-one point two hundred ninety-seven (321.297), three hundred twenty-one point two hundred ninety-nine (321.299), three hundred twenty-one point three hundred three (321.303), three hundred twenty-one point three hundred four (321.304), subsections one (1) and two (2), three hundred twenty-one point three hundred five (321.305), three hundred twenty-one point three hundred six (321.306), three hundred twenty-one point three hundred eleven (321.311), three hundred twenty-one point three hundred twelve (321.312), three hundred twenty-one point three hundred fourteen (321.314), three hundred twenty-one point three hundred fifteen (321.315), three hundred twenty-one point three hundred sixteen (321.316), three hundred twenty-one point three hundred eighteen (321.318), three hundred twenty-one point three hundred twenty-three (321.323), three hundred twenty-one point three hundred thirty-five (321.335), three hundred twenty-one point three hundred thirty-six (321.336), three hundred

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twenty-one point three hundred thirty-seven (321.337), three hundred twenty-one point three hundred thirty-eight (321.338), three hundred twenty-one point three hundred forty (321.340), three hundred twenty-one point three hundred forty-four (321.344), three hundred twenty-one point three hundred fifty-three (321.353), three hundred twenty-one point three hundred fifty-four (321.354), three hundred twenty-one point three hundred sixty-three (321.363), three hundred twenty-one point three hundred sixty-four (321.364), three hundred twenty-one point three hundred sixty-five (321.365), three hundred twenty-one point three hundred sixty-six (321.366), three hundred twenty-one point three hundred sixty-eight (321.368), three hundred twenty-one point three hundred eighty-two (321.382), and three hundred twenty-one point three hundred ninety-five (321.395) of the Code, the scheduled fine is fifteen dollars.

h. For violations involving failures to yield or to observe pedestrians and other vehicles under sections three hundred twenty-one point two hundred fifty-seven (321.257), subsections one (1) and four (4), three hundred twenty-one point two hundred eighty-eight (321.288), three hundred twenty-one point two hundred ninety-eight (321.298), three hundred twenty-one point three hundred (321.300), three hundred twenty-one point three hundred seven (321.307), three hundred twenty-one point three hundred eight (321.308), three hundred twenty-one point three hundred thirteen (321.313), three hundred twenty-one point three hundred nineteen (321.319), three hundred twenty-one point three hundred twenty (321.320), three hundred twenty-one point three hundred twenty-one (321.321), three hundred twenty-one point three hundred twenty-nine (321.329), three hundred twenty-one point three hundred thirty-three (321.333), three hundred twenty-one point three hundred thirty-nine (321.339), and three hundred twenty-one point three hundred sixty-seven (321.367) of the Code, the scheduled fine is twenty dollars.

i. For violations by pedestrians and bicyclists under sections three hundred twenty-one point two hundred thirty-six (321.236), subsection ten (10), three hundred twenty-one point three hundred twenty-five (321.325), three hundred twenty-one point three hundred twenty-six (321.326), three hundred twenty-one point three hundred twenty-eight (321.328), three hundred twenty-one point three hundred thirty-one (321.331), three hundred twenty-one point three hundred thirty-two (321.332), three hundred twenty-one point three hundred ninety-seven (321.397), and three hundred

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twenty-one point four hundred thirty-four (321.434) of the Code, the scheduled fine is ten dollars.

j. For violations by operators of school buses and emergency vehicles, and for violations by other motor vehicle operators when in vicinity, under sections three hundred twenty-one point two hundred thirty-one (321.231), three hundred twenty-one point three hundred twenty-four (321.324), three hundred twenty-one point three hundred seventy-two (321.372), and three hundred twenty-one point three hundred seventy-seven (321.377) of the Code, the scheduled fine is twenty-five dollars: However, excessive speed by a school bus in excess of ten miles over the limit is not a scheduled violation.

k. For violations of traffic signs and signals, and for failure to obey an officer under sections three hundred twenty-one point two hundred twenty-nine (321.229), three hundred twenty-one point two hundred thirty-six (321.236), subsections two (2), and six (6), three hundred twenty-one point two hundred fifty-seven (321.257), subsections two (2) and three (3), three hundred twenty-one point two hundred fifty-eight (321.258), three hundred twenty-one point two hundred ninety-four (321.294), three hundred twenty-one point three hundred four (321.304), subsection three (3), three hundred twenty-one point three hundred twenty-two (321.322), three hundred twenty-one point three hundred forty-one (321.341), three hundred twenty-one point three hundred forty-two (321.342), three hundred twenty-one point three hundred forty-three (321.343), and three hundred twenty-one point three hundred forty-five (321.345) of the Code, the scheduled fine is twenty dollars.

l. For height, weight and load violations and towed vehicle violations under sections three hundred twenty-one point three hundred nine (321.309), three hundred twenty-one point three hundred ten (321.310), three hundred twenty-one point three hundred eighty-one (321.381), three hundred twenty-one point three hundred ninety-four (321.394), three hundred twenty-one point four hundred thirty-seven (321.437), three hundred twenty-one point four hundred fifty-five (321.455), three hundred twenty-one point four hundred fifty-six (321.456), three hundred twenty-one point four hundred fifty-seven (321.457), three hundred twenty-one point four hundred fifty-eight (321.458), three hundred twenty-one point four hundred sixty-one (321.461), three hundred twenty-one point four hundred sixty-two (321.462), and three hundred twenty-one point four hundred seventy-four (321.474) of the

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Code, the scheduled fine is twenty-five dollars. For weight violations under sections three hundred twenty-one point four hundred fifty-nine (321.459) and three hundred twenty-one point four hundred sixty-six (321.466) of the Code the scheduled fine is twenty dollars for each two thousand pounds or fraction thereof of overweight.

m. For violation of display of identification required by section three hundred twenty-six point twenty-two (326.22) of the Code and violation of trip permits as prescribed by section three hundred twenty-six point twenty-three (326.23) of the Code, the scheduled fine is twenty dollars.

n. For violation of intrastate hauling on foreign registration under sections three hundred twenty-one point fifty-four (321.54) and three hundred twenty-one point fifty-five (321.55) of the Code; use of registration under section three hundred twenty-one point ninety-nine (321.99) of the Code; and display of registration or plates under section three hundred twenty-one point ninety-eight (321.98) of the Code, the scheduled fine is twenty dollars.

o. For violations of sections three hundred twenty-four point fourteen (324.14), three hundred twenty-four point fifty-two (324.52) or three hundred twenty-four point seventy-four (324.74), subsections two (2) and six (6), of the Code, the scheduled fine is ten dollars.

p. Violations of the schedule of axle and tandem axle and gross or group of axle weight violations in section three hundred twenty-one point four hundred sixty-three (321.463) of the Code shall be scheduled violations subject to the provisions, procedures and exceptions contained in sections seven hundred fifty-three point thirteen (753.13) to seven hundred fifty-three point eighteen (753.18) of the Code, irrespective of the amount of the fine under that schedule. Violations of the schedule of weight violations shall be chargeable, where the fine charged does not exceed one hundred dollars, only by uniform citation and complaint. Violations of the schedule of weight violations, where the fine charged exceeds one hundred dollars: (1) Shall, when the violation is admitted and section seven hundred fifty-three point sixteen (753.16) of the Code applies, be chargeable upon uniform citation and complaint, indictment, or county attorney's information, (2) but otherwise, shall be chargeable only upon indictment or county attorney's information. In all cases of charges under the schedule of weight violations, the charge shall specify

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the amount of fine charged under the schedule. Where a defendant is convicted and the fine under the foregoing schedule of weight violations exceeds one hundred dollars, the conviction shall be of an indictable offense although section seven hundred fifty-three point sixteen (753.16) of the Code is employed and whether the violation is charged upon uniform citation and complaint, indictment, or county attorney's information.

3. VIOLATIONS OF NAVIGATION LAWS.

a. For violations of registration, inspection, identification and record provisions under sections one hundred six point four (106.4), one hundred six point five (106.5), one hundred six point ten (106.10), one hundred six point thirty-five (106.35), and one hundred six point thirty-seven (106.37) of the Code, the scheduled fine is ten dollars. - 5692

b. For unused or improper or defective lights and warning devices under sections one hundred six point nine (106.9), subsections two (2), four (4), five (5), nine (9), ten (10) and thirteen (13), and one hundred six point eleven (106.11) of the Code, the scheduled fine is ten dollars.

c. For unused or improper or defective equipment under section one hundred six point nine (106.9), subsections six (6), seven (7) and eight (8), the scheduled fine is twenty dollars.

d. For operating violations under sections one hundred six point twelve (106.12), one hundred six point fifteen (106.15), subsection two (2), one hundred six point twenty-six (106.26), one hundred six point thirty-one (106.31), whether of state law or local ordinance, and one hundred six point thirty-three (106.33) of the Code, the scheduled fine is twenty dollars: However, violation of section one hundred six point twelve (106.12), subsection two (2) of the Code, is not a scheduled violation.

e. For operating violations under sections one hundred six point fifteen (106.15), subsection one (1), one hundred six point twenty-four (106.24) and one hundred six point thirty-four (106.34) of the Code, the scheduled fine is twenty-five dollars.

f. For violations of use, location and storage of vessels, devices and structures under sections one hundred six point twenty-seven (106.27), one hundred six point twenty-eight (106.28), and one hundred six point thirty-two (106.32) of the Code, the scheduled fine is fifteen dollars.

g. For violations of all subdivision ordinances

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under section one hundred six point seventeen (106.17), subsection two (2) of the Code, except those relating to matters subject to regulation by authority of subsection five (5) of section one hundred six point thirty-one (106.31) of the Code, the scheduled fine is ten dollars, whether or not a different scheduled fine is prescribed elsewhere in this subsection.

4. SNOWMOBILE VIOLATIONS.

a. For registration and identification violations under sections three hundred twenty-one G point three (321G.3) and three hundred twenty-one G point five (321G.5) of the Code, the scheduled fine is ten 5692 dollars.

b. For operating violations under sections three hundred twenty-one G point nine (321G.9), subsections one (1), two (2), three (3), four (4), five (5), and seven (7), three hundred twenty-one G point eleven (321G.11), and three hundred twenty-one G point thirteen (321G.13), subsections four (4) and nine (9) of the Code, the scheduled fine is twenty dollars.

c. For improper or defective equipment under section three hundred twenty-one G point twelve (321G.12) of the Code, the scheduled fine is ten dollars.

d. For violations of section three hundred twenty-one G point nineteen (321G.19) of the Code, the scheduled fine is fifteen dollars.

5. FISH AND GAME LAW VIOLATIONS.

a. For violations of section one hundred ten point one (110.1) of the Code, the scheduled fine is ten dollars: However, engaging without a license in any activity the license fee for which is greater than ten dollars is not a scheduled violation.

b. For violations of sections one hundred nine point fifty-four (109.54), one hundred nine point eighty (109.80), unnumbered paragraph one (1), one hundred nine point eighty-two (109.82), one hundred nine point ninety- one (109.91), one hundred nine point one hundred twenty-two (109.122), one hundred ten point twelve (110.12), of the Code, and Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seven (107), section one (1), the scheduled fine is twenty dollars.

"6. VIOLATIONS RELATING TO THE USE AND MISUSE OF PARKS AND PRESERVES.

a. For violations under sections one hundred eleven point thirty-nine (111.39), one hundred eleven point forty-four (111.44), one hundred eleven point forty-five (111.45), one hundred eleven point } 5692

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forty-eight (111.48) and one hundred eleven point fifty (111.50) of the Code, the scheduled fine is ten dollars.

b. For violations under sections one hundred eleven point forty (111.40), one hundred eleven point forty-three (111.43), one hundred eleven point forty-six (111.46) and one hundred eleven point forty-nine (111.49) of the Code, the scheduled fine is fifteen dollars.

7. DESCRIPTION OF VIOLATIONS. The descriptions of offenses used in this section 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.

Sec. ___. Section seven hundred fifty-three point sixteen (753.16), subsections one (1) and two (2), and subsection three (3), paragraph a, Code 1975, are amended to read as follows:

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 the citation and complaint, together with the minimum fine for the violation, plus five dollars cost, to a ~~traffic~~ scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter three hundred twenty-one (321) of the Code, forward a copy of the citation and complaint and admission to the ~~commissioner of public safety~~ department of transportation as required by section 321.207. Thereupon the defendant shall not be required to appear before the court. The admission shall constitute 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 he is required to appear before the court, deliver or mail such copies, together with his or her admission, fine, and five dollars cost, to the ~~traffic~~ scheduled violations office in the county. The procedure, fine and costs shall be the same as when the charge is by citation and complaint, with the admission and the number of the defendant's operator's or chauffeur's license placed upon the information, when the violation involves the use of a motor vehicle.

a. If the defendant wishes to admit the violation, the officer may release the defendant upon observing

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him mail the citation and complaint, admission, and minimum fine, together with five dollars costs, to a ~~traffic~~ scheduled violations office in the county, in an envelope furnished by the officer. The officer may allow the defendant 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.

Sec. ___. Section seven hundred fifty-three point sixteen (753.16), Code 1975, is amended by adding the following new subsection:

NEW SUBSECTION. The five dollars in costs imposed by this section shall be the total costs collectible from any defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection four (4) of this section. Fees shall not be imposed upon or collected from any defendant for the purposes specified in subsections nine (9), ten (10) or twenty (20) of section six hundred six point fifteen (606.15) of the Code.

Sec. ___. Section seven hundred fifty-three point seventeen (753.17), Code 1975, is amended to read as follows:

753.17 REQUIRED COURT APPEARANCE. Section 753.16 shall not apply to a scheduled violation in any of the following circumstances:

1. When the violation charged involved or resulted in an accident or injury to person or property.

2. When the violation involved the use of a motor vehicle and the officer believed the defendant did not have in force a valid operator's or chauffeur's license or permit.

3. When ~~the officer believed~~ the violation was ~~hazardous or aggravated~~ created an immediate threat to the safety of other persons or property because of highway conditions, visibility, traffic, repetition, or other circumstances.

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 ~~traffic~~ scheduled violations office and shall endorse thereon "Court appearance required"~~.~~ ~~--A~~ and the defendant shall appear before the court ~~for any nonscheduled violation~~ either in person or by attorney.

Sec. ___. Section seven hundred fifty-three point

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eighteen (753.18), Code 1975, is amended to read as follows:

753.18 OTHER PENALTIES. If the defendant is convicted of a scheduled violation, the penalty shall be the scheduled fine, without suspension of the fine prescribed in section 753.15 together with costs assessed and distributed as prescribed by section 602.63, unless it appears from the evidence that the violation was of the type set forth in section 753.17, ~~subsection~~ subsections one (1) or 3, in which event the ~~punishment shall be increased accordingly within the limits of law~~ scheduled fine shall not apply and the penalty shall be increased within the limits provided by law for the offense.

Upon the conviction of a defendant of a violation specified in sections seven hundred fifty-three point fifteen (753.15) or seven hundred fifty-three point seventeen (753.17) of the Code, fees shall not be imposed or collected for the purposes specified in subsections nine (9), ten (10), or twenty (20) of section six hundred six point fifteen (606.15) of the Code.

Sec. ___. Section seven hundred fifty-three point nineteen (753.19), Code 1975, is amended to read as follows:

753.19 DISPOSITION OF TRAFFIC FINES AND COSTS. Fines, forfeiture of bail, fees, and costs collected for all ~~traffic~~ scheduled violations shall be remitted in accordance with section 602.55. — 5634, 5692

Sec. ___. Section seven hundred fifty-three point twenty (753.20), Code 1975, is amended to read as follows:

753.20 VENUE.

1. ~~Traffic~~ Scheduled violations may be tried before the nearest magistrate in the judicial district in which the offense is committed.

2. Upon written consent of the defendant and the officer ~~who apprehended him~~ issuing the citation, ~~traffic~~ scheduled violations, other than those for which a court appearance is required under section seven hundred fifty-three point seventeen (753.17) of the Code, 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~~ scheduled violations office designated by the defendant and the officer." — 5692

"Sec. ___. Notwithstanding any effective date which may be specified elsewhere in this Act, sections seven hundred fifty-three point nine (753.9), seven hundred fifty-three point thirteen (753.13), — H, 5692

seven hundred fifty-three point fourteen (753.14), seven hundred fifty-three point fifteen (753.15), seven hundred fifty-three point sixteen (753.16), seven hundred fifty-three point seventeen (753.17), seven hundred fifty-three point eighteen (753.18), seven hundred fifty-three point nineteen (753.19) and seven hundred fifty-three point twenty (753.20) of the Code as amended by this Act shall take effect on July 1, 1976."

509 Page 421, line 30, by inserting after the word "Sections" the words "ninety-eight point forty (98.40), ninety-eight point forty-one (98.41),".

510. Page 421, by striking line 31.

511. Page 421, line 32, by striking the words and figure "three point three (223.3),".

512. Page 421, line 32, by inserting after the figure "(223.3)," the words "two hundred forty-five point fourteen (245.14),".

513. Page 421, line 34, by inserting after the figure "(246.23)," the words "two hundred forty-six point forty-four (246.44),".

514. Page 422, line 20, by striking the words "two hundred forty-eight point three (248.3),".

515. Page 422, line 21, by inserting after "(252.19)," the words "two hundred eighty-seven point four (287.4),".

516. Page 422, line 29, by inserting after the numerals "(343.6)," the words and numerals "three hundred fifty-one point twenty-five (351.25), three hundred fifty-one point twenty-six (351.26), three hundred fifty-one point twenty-seven (351.27),".

517 Page 422, line 32, by inserting after the numeral "(474.41)," the words and numerals "four hundred seventy-seven point fifty-eight (477.58), four hundred seventy-seven point fifty-nine (477.59), four hundred seventy-seven point sixty (477.60), four hundred seventy-nine point nineteen (479.19), four hundred seventy-nine point one hundred nine (479.109), four hundred seventy-nine point one hundred ten (479.110), four hundred seventy-nine point one hundred eleven (479.111), four hundred seventy-nine point one hundred twelve (479.112), four hundred seventy-nine point one hundred thirteen (479.113), four hundred seventy-nine point one hundred fourteen (479.114), four hundred seventy-nine point one hundred fifteen (479.115),".

518. Page 424, line 8, by inserting after the figure "(753.8)," the word "and".

519. Page 424, lines 9 through 11, by striking

the words and figures "seven hundred eighty-two point nine (782.9), seven hundred eighty-two point ten (782.10), seven hundred eighty-two point eleven (782.11),".

520 Page 424, line 13, by inserting after the word "Chapters" the words and figure "two hundred twenty-five A (225A),".

521 Page 424, line 13, by inserting after the word "Chapters" the words "thirty-eight (38),"

522 Page 424, line 13, by inserting after the word "Chapters" the words and figures "six hundred forty-five (645),".

523 Page 424, line 13, by inserting after the word "Chapters" the words "two hundred sixteen (216),".

524 Page 424, line 13, by inserting after the word "Chapters" the words "one hundred twenty-one (121),".

525 Page 425, by inserting after line 30 the following:

"Sec. ___. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred eighty-three (183), is amended by adding the following:

Sec. ___. NEW SECTION. The provisions of sections one (1) and three (3) of this Act shall not be applicable to persons eighteen years of age or older subsequent to the date that the federal law and regulations no longer mandate that a state's law require motorcyclists eighteen years of age and older when operating or riding a motorcycle to wear a motorcycle helmet as a prerequisite to approval of the state's highway safety program as provided in the Highway Safety Act of 1966, 23 U.S.C. 402."

526 Page 426, by inserting after line 29, the following:

"Sec. ____. The provisions of this act amending Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred eighty-three (183), shall take effect July 1, 1976."

527 Page 426, after line 29, by inserting the following:

"Sec. ____. Except as otherwise specifically provided, the provisions of this act shall take effect January 1, 1978."

Amend Senate File 85 as passed, amended, and reprinted by the Senate as follows:

1. Page 1, line 17, by inserting after the word "his" the words "or her".

2. Page 1, line 21, by striking the word "he" and inserting in lieu thereof the words "the person".

3. Page 1, line 22, by striking the word "him" and inserting in lieu thereof the words "the person".

4. Page 1, line 23, by inserting after the word "he" the words "or she".

5. Page 1, line 29, by striking the first word "his" and inserting in lieu thereof the words "the person's" and by inserting after the second word "his" the words "or her".

6. Page 1, line 30, by striking the word "his" and inserting in lieu thereof the words "the person's".

7. Page 1, line 31, by striking the word "his" and inserting in lieu thereof the words "the person's".

8. Page 1, line 32, by striking the word "he" and inserting in lieu thereof the words "the person".

9. Page 2, line 7, by striking the word "he" and inserting in lieu thereof the words "the person".

10. Page 2, line 8, by inserting after the word "his" the words "or her".

11. Page 2, line 10, by striking the word "He" and inserting in lieu thereof the words "The person".

12. Page 2, line 11, by striking the word "him" and inserting in lieu thereof the words "the person".

13. Page 2, line 13, by striking the word "He" and inserting in lieu thereof the words "The person".

14. Page 2, line 15, by striking the word "him" and inserting in lieu thereof the words "the person".

15. Page 2, line 17, by striking the word "He" and inserting in lieu thereof the words "The person".

16. Page 2, line 19, by striking the word "him" and inserting in lieu thereof the words "the person".

17. Page 3, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

18. Page 4, line 32, by inserting after the word "he" the words "or she".

19. Page 5, line 24, by striking the word "he" and inserting in lieu thereof the words "the person".

20. Page 5, line 28, by striking the word "he" and inserting in lieu thereof the words "the person".

21. Page 6, line 13, by striking the word "he" and inserting in lieu thereof the words "the person".

22. Page 7, line 3, by striking the word "he" and inserting in lieu thereof the words "the person".

23. Page 7, line 4, by inserting after the word "himself" the words "or herself".

24. Page 7, line 7, by striking the word "his" and inserting in lieu thereof the words "the person's".

25. Page 7, line 15, by inserting after the word "his" the words "or her".

26. Page 7, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

27. Page 7, line 17, by striking the word "he" and inserting in lieu thereof the words "the person".

28. Page 8, line 1, by striking the word "He" and inserting in lieu thereof the words "The person".

29. Page 8, line 3, by striking the word "He" and inserting in lieu thereof the words "The person".

30. Page 8, line 6, by striking the first word "He" and inserting in lieu thereof the words "The person" and by striking the second word "he" and inserting in lieu thereof the words "the person".

31. Page 8, line 22, by inserting after the word "his" the words "or her".

32. Page 9, line 8, by inserting after the word "his" the words "or her".

33. Page 9, line 24, by inserting after the word "himself" the words ",or herself".

34. Page 10, line 2, by inserting after the word "himself" the words "or herself".

35. Page 10, line 5, by inserting after the word "himself" the words "or herself" and by inserting after the word "his" the words "or her".

36. Page 10, line 7, by striking the first word "he" and inserting in lieu thereof the words "the person" and by inserting after the second word "he" the words "or she".

37. Page 10, line 9, by striking the word "He" and inserting in lieu thereof the words "The person".

38. Page 10, line 10, by striking the word "he" and inserting in lieu thereof the words "the person".

39. Page 10, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

40. Page 10, line 20, by striking the word "he" and inserting in lieu thereof the words "the correctional officer or peace officer".

41. Page 10, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

42. Page 10, line 35, by inserting after the word "his" the words "or her".

43. Page 11, line 7, by inserting after the word "He" the words "or she".

44. Page 11, line 8, by inserting after the word "He" the words "or she".

45. Page 11, line 10, by inserting after the words "He" the words "or she" and by inserting after the

word "his" the words "or her".
46. Page 11, line 11, by inserting after the word "his" the words "or her".
47. Page 11, line 13, by inserting after the word "His" the words "or her".
48. Page 12, line 5, by striking the word "him" and inserting in lieu thereof the words "the person".
49. Page 12, line 9, by striking the word "his" and inserting in lieu thereof the words "the person's".
50. Page 12, line 13, by striking the word "his" and inserting in lieu thereof the words "the person's".
51. Page 12, line 29, by striking the word "he" and inserting in lieu thereof the words "the person".
52. Page 12, line 30, by inserting after the word "he" the words "or she".
53. Page 12, line 31, by inserting after the word "he" the words "or she".
54. Page 13A, line 1, by striking the word "he" and inserting in lieu thereof the words "the person".
55. Page 13A, line 9, by striking the word "he" and inserting in lieu thereof the words "the person".
56. Page 16, line 1, by striking the word "his" and inserting in lieu thereof the words "the person's", by striking the first word "he" and inserting in lieu thereof the words "the person" and by inserting after the second word "he" the words "or she".
57. Page 16, line 7, by striking the word "his" and inserting in lieu thereof the words "the actor's".
58. Page 16, line 8, by striking the word "him" and inserting in lieu thereof the words "the actor".
59. Page 16, line 12, by striking the word "he" and inserting in lieu thereof the words "the person".
60. Page 17, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".
61. Page 17, line 6, by striking the word "he" and inserting in lieu thereof the words "the person".
62. Page 17, line 13, by striking the word "his" and inserting in lieu thereof the words "the other person's".
63. Page 17, line 20, by inserting after the word "his" the words "or her".
64. Page 17, line 23, by inserting after the word "his" the words "or her".
65. Page 17, line 27, by striking the word "he" and inserting in lieu thereof the words "the person".
66. Page 18, line 4, by striking the word "he" and inserting in lieu thereof the words "the person".
67. Page 18, line 11, by striking the word "him" and inserting in lieu thereof the words "the other person".

68. Page 19A, line 1, by striking the word "he" and inserting in lieu thereof the words "the person".

69. Page 19A, line 17, by striking the word "he" and inserting in lieu thereof the words "the person".

70. Page 19A, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

71. Page 20A, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

72. Page 21A, line 3, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

73. Page 21A, line 6, by striking the word "He" and inserting in lieu thereof the words "The person".

74. Page 21A, line 8, by striking the word "He" and inserting in lieu thereof the words "The person".

75. Page 21A, line 19, by inserting after the word "he" the words "or she".

76. Page 21A, line 20, by inserting after the word "he" the words "or she".

77. Page 21A, line 27, by striking the word "him" and inserting in lieu thereof the words "the person".

78. Page 22, line 1, by inserting after the word "he" the words "or she".

79. Page 22, line 2, by striking the word "he".

80. Page 22, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

81. Page 22, line 6, by striking the word "his" and inserting in lieu thereof the words "the person's".

82. Page 22, line 16, by inserting after the first word "he" the words "or she" and by striking the second word "he" and inserting in lieu thereof the words "the person".

83. Page 22, line 17, by inserting after the word "his" the words "or her".

84. Page 22, line 18, by striking the word "his" and inserting in lieu thereof the words "the person's".

85. Page 22, line 24, by striking the word "he" and inserting in lieu thereof the words "the person".

86. Page 22, line 26, by striking the word "his" and inserting in lieu thereof the words "the person's".

87. Page 22, line 29, by striking the word "him" and inserting in lieu thereof the words "another".

88. Page 23, line 1, by striking the word "he" and inserting in lieu thereof the words "the person".

89. Page 23, line 10, by striking the word "he" and inserting in lieu thereof the words "the person".

90. Page 23, line 11, by striking the word "himself" and inserting in lieu thereof the word ", oneself,".

91. Page 23, line 29, by inserting after the word

"he" the words "or she".

92. Page 23, line 31, by striking the word "he" and inserting in lieu thereof the words "the person".

93. Page 24, line 10, by striking the word "he" and inserting in lieu thereof the words "the defendant".

94. Page 24, line 13, by striking the word "he" and inserting in lieu thereof the words "the defendant" and by inserting after the word "his" the words "or her".

95. Page 24, line 19, by striking the word "he" and inserting in lieu thereof the words "the defendant".

96. Page 24, line 33, by striking the word "he" and inserting in lieu thereof the words "the defendant".

97. Page 25, line 1, by striking the word "he" and inserting in lieu thereof the words "the insurer".

98. Page 26, line 12, by striking the word "his" and inserting in lieu thereof the words "the person's".

99. Page 26, line 18, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

100. Page 26, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

101. Page 27A, line 3, by striking the word "he" and inserting in lieu thereof the words "the person".

102. Page 27A, line 4, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

103. Page 27A, line 9, by inserting after the word "his" the words "or her".

104. Page 27A, line 10, by inserting after the word "him" the words "or her".

105. Page 27A, line 21, by striking the word "his" and inserting in lieu thereof the words "the person's".

106. Page 27A, line 23, by striking the word "he" and inserting in lieu thereof the words "the person".

107. Page 27A, line 25, by striking the word "he" and inserting in lieu thereof the words "the person".

108. Page 27A, line 29, by striking the word "he" and inserting in lieu thereof the words "the person".

109. Page 27B, line 36, by striking the word "he" and inserting in lieu thereof the words "the person".

110. Page 28A, line 1, by striking the word "his" and inserting in lieu thereof the words "the maker's".

111. Page 28A, line 10, by striking the word "he" and inserting in lieu thereof the words "the person".

112. Page 29, line 9, by striking the word "he" and inserting in lieu thereof the words "the person".

113. Page 29, line 10, by inserting after the word "he" the words "or she".

114. Page 29, line 11, by striking the word "he" and inserting in lieu thereof the words "the person".

115. Page 29, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

116. Page 29, line 19, by striking the word "he" and inserting in lieu thereof the words "the person".

117. Page 29, line 24, by striking the word "he" and inserting in lieu thereof the words "the finder".

118. Page 31A, line 2, by inserting after the word "his" the words "or her".

119. Page 31A, lines 4 and 5, by striking the word "himself" and inserting in lieu thereof the word "oneself".

120. Page 32, line 18, by inserting after the word "he" the words "or she".

121. Page 32, line 27, by inserting after the word "he" the words "or she".

122. Page 32, line 31, by inserting after the word "he" the words "or she".

123. Page 32, line 35, by striking the word "he" and inserting in lieu thereof the words "the other person".

124. Page 33, line 2, by striking the word "he" and inserting in lieu thereof the words "the person".

125. Page 33, line 3, by striking the word "man" and inserting in lieu thereof the words "person".

126. Page 33, line 23, by inserting after the word "he" the words "or she".

127. Page 36, line 27, by striking the word "man" and inserting in lieu thereof the word "person".

128. Page 37, line 6, by inserting after the word "himself" the words "or herself".

129. Page 37, line 20, by striking the word "his" and inserting in lieu thereof the words "the officer's or employee's".

130. Page 37, line 32, by striking the word "him" and inserting in lieu thereof the words "the person".

131. Page 38, line 2, by striking the word "he" and inserting in lieu thereof the words "the person".

132. Page 38, line 3, by inserting after the word "he" the words "or she".

133. Page 38, line 7, by striking the word "him" and inserting in lieu thereof the words "the magistrate or officer".

134. Page 38, line 23, by inserting after the word "himself" the words "or herself".

135. Page 38, line 25, by inserting after the word "himself" the words "or herself" and by striking the word "he" and inserting in lieu thereof the words "the person".

136. Page 38, line 27, by inserting after the word "he" the words "or she".

137. Page 38, line 32, by striking the word "he" and inserting in lieu thereof the words "the person".

138. Page 38, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

139. Page 39, line 3, by striking the word "he" and inserting in lieu thereof the words "the person".

140. Page 39, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

141. Page 39, line 10, by inserting after the word "himself" the words "or herself" and by striking the word "he" and inserting in lieu thereof the words "the person".

142. Page 39, line 21, by striking the word "he" and inserting in lieu thereof the words "the person".

143. Page 40, line 29, by striking the word "he" and inserting in lieu thereof the words "the person".

144. Page 40, line 32, by striking the word "he" and inserting in lieu thereof the words "the person".

145. Page 41, line 7, by striking the word "he" and inserting in lieu thereof the words "the person".

146. Page 41, line 12, by inserting after the word "he" the words "or she".

147. Page 41, line 18, by inserting after the word "his" the words "or her".

148. Page 41, line 25, by striking the word "he" and inserting in lieu thereof the words "the person".

149. Page 41, line 30, by striking the word "him" and inserting in lieu thereof the words "the other person".

150. Page 41, line 33, by striking the word "he" and inserting in lieu thereof the words "the person".

151. Page 42, line 4, by inserting after the word "his" the words "or her".

152. Page 42, line 21, by inserting after the word "him" the words "or her".

153. Page 42, line 24, by inserting after the word "him" the words "or her".

154. Page 42, line 26, by inserting after the word "him" the words "or her".

155. Page 42, line 27, by inserting after the word "his" the words "or her".

156. Page 42, line 28, by inserting after the word "he" the words "or she".

157. Page 42, line 30, by inserting after the

word "his" the words "or her".

158. Page 42, line 31, by inserting after the word "him" the words "or her".

159. Page 43, line 2, by inserting after the word "him" the words "or her".

160. Page 43, line 10, by inserting after the word "his" the words "or her".

161. Page 44, line 3, by inserting after the word "his" the words "or her".

162. Page 44, line 14, by striking the word "he" and inserting in lieu thereof the words "the person".

163. Page 44, line 18, by striking the word "he" and inserting in lieu thereof the words "the person".

164. Page 44, line 25, by striking the word "his" and inserting in lieu thereof the words "the elector's".

165. Page 44, line 34, by inserting after the word "his" the words "or her".

166. Page 45A, line 6, by inserting before the word "not" the words "or herself".

167. Page 45A, line 12, by inserting after the first word "his" the words "or her" and by striking the second word "his" and inserting in lieu thereof the words "the voters".

168. Page 46, line 5, by inserting after the word "his" the words "or her".

169. Page 47, line 2, by striking the word "he" and inserting in lieu thereof the words "the person".

170. Page 47, line 12, by striking the word "he" and inserting in lieu thereof the words "the person".

171. Page 47, line 14, by striking the word "he" and inserting in lieu thereof the words "the person".

172. Page 47, line 32, by striking the word "he" and inserting in lieu thereof the words "the person".

173. Page 48, line 29, by inserting after the word "his" the words "or her".

174. Page 49, line 20, by inserting after the word "his" the words "or her".

175. Page 49, line 21, by striking the word "him" and inserting in lieu thereof the words "the person".

176. Page 49, line 22, by inserting after the word "his" the words "or her" and by striking the word "him" and inserting in lieu thereof the words "the person".

177. Page 49, line 27, by inserting after the word "his" the words "or her".

178. Page 50, line 4, by inserting after the word "he" the words "or she".

179. Page 50, line 8, by inserting after the word "his" the words "or her".

180. Page 50, line 10, by striking the word "him" and inserting in lieu thereof the words "the person".

181. Page 50, line 12, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

182. Page 50, line 14, by striking the word "his" and inserting in lieu thereof the words "the person's".

183. Page 50, line 17, by inserting after the word "his" the words "or her".

184. Page 50, line 21, by striking the word "his" and inserting in lieu thereof the words "the person's".

185. Page 50, line 25, by inserting after the word "his" the words "or she".

186. Page 50, line 28, by inserting after the word "his" the words "or she".

187. Page 50, line 34, by inserting after the word "his" the words "or her".

188. Page 51-, line 2, by inserting after the word "his" the words "or her".

189. Page 51A, line 29, by inserting after the word "he" the words "or she".

190. Page 51B, line 38, by striking the word "He" and inserting in lieu thereof the words "The person".

191. Page 52, line 1, by striking the word "He" and inserting in lieu thereof the words "The person".

192. Page 52, line 2, by striking the word "He" and inserting in lieu thereof the words "The person".

193. Page 52, line 4, by striking the word "He" and inserting in lieu thereof the words "The person".

194. Page 52, line 6, by striking the word "he" and inserting in lieu thereof the words "the person".

195. Page 52, line 12, by striking the word "he" and inserting in lieu thereof the words "the person".

196. Page 53, line 18, by striking the word "he" and inserting in lieu thereof the words "the person".

197. Page 53, line 26, by inserting after the word "his" the words "or her".

198. Page 53, line 27, by inserting after the word "his" the words "or her".

199. Page 53, line 35, by striking the word "he" and inserting in lieu thereof the words "the officer".

200. Page 54, line 4, by striking the word "he" and inserting in lieu thereof the words "the officer".

201. Page 54, line 5, by striking the word "he" and inserting in lieu thereof the words "the officer".

202. Page 56, line 7, by inserting after the word "his" the words "or her".

203. Page 56, line 17, by striking the word "he" and inserting in lieu thereof the words "the person".

204. Page 56, line 19, by striking the word "He" and inserting in lieu thereof the words "The person".

205. Page 56, line 21, by striking the first word "He" and inserting in lieu thereof the words "The person" and by inserting after the second word "he" the words "or she".

206. Page 56, line 23, by striking the word "he" and inserting in lieu thereof the words "the person".

207. Page 56, line 28, by inserting after the word "he" the words "or she".

208. Page 57A, line 1, by inserting after the word "himself" the words "or herself".

209. Page 57A, line 4, by inserting after the word "himself" the words "or herself".

210. Page 57A, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".

211. Page 57A, line 8, by inserting after the word "his" the words "or her".

212. Page 57A, line 13, by inserting after the word "him" the words "or her".

213. Page 57A, line 14, by inserting after the word "him" the words "or her".

214. Page 57A, line 21, by striking the word "he" and inserting in lieu thereof the words "the person".

215. Page 57A, line 23, by striking the word "He" and inserting in lieu thereof the words "The person".

216. Page 57A, line 30, by striking the word "He" and inserting in lieu thereof the words "The person" and by inserting after the word "himself" the words "or herself".

217. Page 58, line 3, by striking the word "he" and inserting in lieu thereof the words "the person".

218. Page 59, line 19, by striking the word "his" and inserting in lieu thereof the words "the person's".

219. Page 59, line 34, by striking the word "he" and inserting in lieu thereof the words "the person".

220. Page 62, line 10, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the county attorney".

221. Page 62, line 27, by striking the word "his" and inserting in lieu thereof the words "the person's".

222. Page 62, line 28, by striking the word "him" and inserting in lieu thereof the words "the person".

223. Page 65, line 1, by inserting after the word "his" the words "or her".

224. Page 66A, line 3, by inserting after the word "he" the words "or she".

225. Page 66B, line 37, by inserting after the

word "himself" the words "or herself".
226. Page 66B, line 43, by inserting after the word "his" the words "or her".
227. Page 67, line 28, by striking the word "he" and inserting in lieu thereof the words "the person".
228. Page 67, line 29, by striking the word "his" and inserting in lieu thereof the words "the person's".
229. Page 68, line 20, by striking the word "he" and inserting in lieu thereof the words "the defendant".
230. Page 69, line 31, by inserting after the word "his" the words "or her".
231. Page 70, line 5, by striking the word "he" and inserting in lieu thereof the words "the person".
232. Page 70, line 13, by striking the word "he" and inserting in lieu thereof the words "the magistrate".
233. Page 70, line 22, by striking the word "his" and inserting in lieu thereof the words "the magistrates".
234. Page 70, line 34, by inserting after the word "his" the words "or her".
235. Page 71, line 8, by striking the word "him" and inserting in lieu thereof the words "the peace officer".
236. Page 71, line 9, by striking the word "his" and inserting in lieu thereof the words "the peace officer's".
237. Page 71, line 12, by striking the word "he" and inserting in lieu thereof the words "the peace officer".
238. Page 71, line 14, by striking the word "he" and inserting in lieu thereof the words "the peace officer".
239. Page 71, line 18, by striking the word "he" and inserting in lieu thereof the words "the peace officer".
240. Page 71, line 22, by striking the word "him" and inserting in lieu thereof the words "the peace officer".
241. Page 71, line 33, by striking the word "his" and inserting in lieu thereof the words "the person's".
242. Page 71, line 35, by striking the word "he" and inserting in lieu thereof the words "the person".
243. Page 72, line 5, by striking the word "he" and inserting in lieu thereof the words "the peace officer".
244. Page 72, line 7, by striking the words "himself or another" and inserting in lieu thereof the words "any person".

245. Page 72, line 8, by striking the word "he" and inserting in lieu thereof the words "the peace officer".

246. Page 72, line 9, by inserting after the word "he" the words "or she".

247. Page 72, line 10, by striking the words "himself or another" and inserting in lieu thereof the words "any person".

248. Page 72, line 11, by striking the word "he" and inserting in lieu thereof the words "the peace officer".

249. Page 72, line 17, by striking the word "his" and inserting in lieu thereof the words "the person's".

250. Page 72, line 20, by striking the word "he" and inserting in lieu thereof the words "the peace officer".

251. Page 72, line 21, by striking the word "he" and inserting in lieu thereof the words "the peace officer".

252. Page 72, line 26, by striking the word "he" and inserting in lieu thereof the words "the person".

253. Page 72, line 27, by striking the word "he" and inserting in lieu thereof the words "the person".

254. Page 72, line 29, by inserting after the word "he" the words "or she".

255. Page 72, line 30, by inserting after the word "he" the words "or she".

256. Page 72, line 31, by striking the words "himself or another" and inserting in lieu thereof the words "any person".

257. Page 72, line 34, by striking the word "himself".

258. Page 73, line 2, by striking the word "he" and inserting in lieu thereof the words "the person".

259. Page 73, line 6, by inserting after the word "himself" the word ", herself," and by striking the word "he" and inserting in lieu thereof the words "the person".

260. Page 73, line 9, by striking the word "he" and inserting in lieu thereof the words "the person".

261. Page 73, line 13, by inserting after the word "his" the words "or her".

262. Page 73, line 15, by inserting after the first word "he" the words "or she" and by inserting after the second word "he" the words "or she".

263. Page 73, line 19, by inserting after the word "him" the words "or her".

264. Page 73, line 20, by striking the word "his" and inserting in lieu thereof the words "the person's"

and by inserting after the word "he" the words "or she".

265. Page 73, line 21, by inserting after the word "him" the words "or her" and by striking the word "his" and inserting in lieu thereof the words "the person's".

266. Page 73, line 26, by inserting after the word "his" the words "or her".

267. Page 73, line 27, by striking the word "he" and inserting in lieu thereof the words "the officer".

268. Page 73, line 29, by inserting after the word "his" the words "or her".

269. Page 73, line 30, by striking the word "he" and inserting in lieu thereof the words "the officer".

270. Page 73, line 34, by striking the word "he" and inserting in lieu thereof the words "the officer".

271. Page 73, line 35, by striking the word "he" and inserting in lieu thereof the words "the officer".

272. Page 74, line 1, by inserting after the word "himself" the words "or herself" and by inserting after the word "he" the words "or she".

273. Page 74, line 10, by striking the word "he" and inserting in lieu thereof the words "the officer".

274. Page 74, line 25, by striking the word "he" and inserting in lieu thereof the words "the officer" and by inserting after the word "him" the words "or her".

275. Page 74, line 27, by striking the word "He" and inserting in lieu thereof the words "Any person".

276. Page 74, line 29, by striking the word "he" and inserting in lieu thereof the words "the arrested person" and by inserting after the word "his" the words "or her".

277. Page 75, line 18, by striking the word "his" and inserting in lieu thereof the words "the officer's".

278. Page 75, line 19, by striking the word "him" and inserting in lieu thereof the words "the officer" and by inserting after the word "his" the words "or her".

279. Page 75, line 23, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

280. Page 75, line 26, by inserting after the word "his" the words "or her".

281. Page 75, line 33, by inserting after the word "his" the words "or her".

282. Page 76, line 7, by striking the word "his" and inserting in lieu thereof the words "the complainant's".

283. Page 76, line 10, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the magistrate".

284. Page 76, line 13, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

285. Page 76, line 18, by inserting after the word "his" the words "or her".

286. Page 76, line 22, by striking the word "him" and inserting in lieu thereof the words "the arrested person".

287. Page 76, line 23, by striking the word "him" and inserting in lieu thereof the words "the arrested person".

288. Page 77, line 3, by inserting after the word "he" the words "or she" and by striking the word "him" and inserting in lieu thereof the words "the officer".

289. Page 77, line 7, by inserting after the word "his" the words "or her".

290. Page 77, line 8, by inserting after the word "his" the words "or her".

291. Page 77, line 19, by striking the word "his" and inserting in lieu thereof the words "the sheriff's".

292. Page 77, line 20, by inserting after the word "him" the words "or her".

293. Page 78, line 18, by striking the word "he" and inserting in lieu thereof the words "the officer".

294. Page 78, line 24, by inserting after the word "he" the words "or she".

295. Page 79, line 8, by striking the word "him" and inserting in lieu thereof the words "the person" and by striking the word "he" and inserting in lieu thereof the words "the person".

296. Page 79, line 13, by striking the word "he" and inserting in lieu thereof the words "the person".

297. Page 79, line 18, by striking the word "he" and inserting in lieu thereof the words "the officer".

298. Page 79, line 22, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

299. Page 79, line 25, by striking the word "him" and inserting in lieu thereof the words "the person".

300. Page 79, line 26, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

301. Page 80, line 18, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

302. Page 80, line 19, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

303. Page 81, line 8, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

304. Page 81, line 22, by inserting after the word "him" the words "or her" and by inserting after the word "his" the words "or her".

305. Page 83, line 5, by inserting after the word "him" the words "or her".

306. Page 83, line 28, by striking the word "his" and inserting in lieu thereof the words "the person's".

307. Page 84, line 2, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

308. Page 84, line 4, by striking the word "he" and inserting in lieu thereof the words "the magistrate".

309. Page 84, line 5, by inserting after the word "his" the words "or her".

310. Page 84, line 9, by striking the word "his" and inserting in lieu thereof the words "or her".

311. Page 84, line 14, by striking the word "him" and inserting in lieu thereof the words "the magistrate" and by inserting after the word "his" the words "or her".

312. Page 84, line 15, by striking the word "him" and inserting in lieu thereof the words "the person".

313. Page 84, line 18, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

314. Page 84, line 26, by striking the word "he" and inserting in lieu thereof the words "the authorized person".

315. Page 85, line 2, by striking the word "his" and inserting in lieu thereof the words "the officer's".

316. Page 85, line 4, by striking the word "his" and inserting in lieu thereof the words "the officer's".

317. Page 85, line 8, by striking the word "his" and inserting in lieu thereof the words "the officer's".

318. Page 85, line 9, by striking the word "him" and inserting in lieu thereof the words "the officer".

319. Page 85, line 15, by inserting after the word "himself" the words "or herself".

320. Page 85, line 28, by inserting after the word "his" the words "or her".

321. Page 85, line 30, by striking the word "his" and inserting in lieu thereof the words "the officer's".

322. Page 86, line 9, by inserting after the word "his" the words "or her".

323. Page 86, line 25, by striking the word "he" and inserting in lieu thereof the words "the inspector".

324. Page 88, line 34, by striking the word "him" and inserting in lieu thereof the words "the person".

325. Page 89, lines 4 and 5, by striking the words "delivery of a copy to him personally" and inserting in lieu thereof the words "personal service".

326. Page 89, line 21, by inserting after the word "his" the words "or her".

327. Page 89, line 27, by striking the word "his" and inserting in lieu thereof the words "the person's".

328. Page 89, line 28, by inserting after the word "he" the words "or she".

329. Page 90, line 7, by striking the word "he" and inserting in lieu thereof the words "the person".

330. Page 91, line 10, by inserting after the word "his" the words "or her".

331. Page 91, line 19, by striking the word "him" and inserting in lieu thereof the words "the defendant".

332. Page 92, line 2, by inserting after the word "his" the words "or her".

333. Page 92, line 12, by inserting after the word "his" the words "or her".

334. Page 92, line 13, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

335. Page 92, line 14, by inserting after the word "his" the words "the defendant's".

336. Page 92, line 18, by striking the word "he" and inserting in lieu thereof the words "the defendant".

337. Page 92, line 20, by inserting after the word "he" the words "or she".

338. Page 92, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

339. Page 93, line 5, by inserting after the word "his" the words "or her" and by striking the word "him" and inserting in lieu thereof the words "the defendant".

340. Page 93, line 6, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

341. Page 93, line 10, by inserting after the word "his" the words "or her".

342. Page 93, line 13, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

343. Page 93, line 18, by striking the word "him" and inserting in lieu thereof the words "the defendant".

344. Page 93, line 19, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

345. Page 93, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

346. Page 94, line 13, by striking the word "his" and inserting in lieu thereof the words "the person's" and by inserting after the word "he" the words "or she".

347. Page 94, line 18, by striking the word "he" and inserting in lieu thereof the words "the defendant".

348. Page 94, line 20, by striking the word "he" and inserting in lieu thereof the words "the person".

349. Page 94, line 26, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

350. Page 96, line 11, by striking the word "he" and inserting in lieu thereof the words "the defendant".

351. Page 96, line 16, by inserting after the word "himself" the words "or herself".

352. Page 96, line 21, by striking the word "he" and inserting in lieu thereof the words "the defendant".

353. Page 96, line 29, by striking the word "his" and inserting in lieu tnereof the words "the defendant's".

354. Page 96, line 30, by inserting after the word "his" the words "or her".

355. Page 96, line 31, by inserting after the word "himself" the words "or herself".

356. Page 96, line 33, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

357. Page 97, line 3, by inserting after the word "his" the words "or her".

358. Page 97, line 11, by striking the word "he" and inserting in lieu thereof the words "the clerk".

359. Page 97, line 12, by inserting after the word "his" the words "or her".

360. Page 97, line 16, by inserting after the word "himself" the words "or herself".

361. Page 97, line 17, by inserting after the word "his" the words "or her".

362. Page 97, line 18, by striking the word "him" and inserting in lieu thereof the words "the defendant".

363. Page 97, line 20, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

364. Page 97, line 25, by striking the word "he" and inserting in lieu thereof the words "the defendant".

365. Page 98, line 11, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

366. Page 98, line 13, by inserting after the word "himself" the words "or herself".

367. Page 99, line 7, by striking the word "his" and inserting in lieu thereof the words "the person's".

368. Page 99, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

369. Page 100, line 3, by inserting after the word "he" the words "or she".

370. Page 100, line 5, by inserting after the word "his" the words "or her".

371. Page 100, line 32, by inserting after the word "his" the words "or her".

372. Page 102, line 12, by striking the word "he" and inserting in lieu thereof the words "the person".

373. Page 102, line 31, by striking the word "him" and inserting in lieu thereof the words "the defendant" and by inserting after the word "his" the words "or her".

374. Page 103, line 4, by striking the first word "his" and inserting in lieu thereof the words "the accused's" and by inserting after the second word "his" the words "or her".

375. Page 103, line 6, by inserting after the word "him" the words "or her".

376. Page 103, line 16, by striking the word "he" and inserting in lieu thereof the words "the accused" and by inserting after the word "his" the words "or her".

377. Page 103, line 19, by striking the word "him" and inserting in lieu thereof the words "the accused" and by inserting after the word "he" the words "or she".

378. Page 103, line 21, by striking the word "him" and inserting in lieu thereof the words "the accused".

379. Page 103, line 23, by striking the word "he" and inserting in lieu thereof the words "the accused".

380. Page 103, line 25, by striking the word "him" and inserting in lieu thereof the words "the accused".

381. Page 103, line 26, by inserting after the word "his" the words "or her".

382. Page 104, line 22, by striking the word "His" and inserting in lieu thereof the words "The magistrate's".

383. Page 104, line 25, by striking the word "him" and inserting in lieu thereof the words "the magistrate".

384. Page 104, line 26, by striking the word "him" and inserting in lieu thereof the words "the defendant".

385. Page 104, line 27, by striking the first word "his" and inserting in lieu thereof the words "the defendant's" and by striking the second word "his" and inserting in lieu thereof the words "the defendant's".

386. Page 104, line 28, by striking the word "he" and inserting in lieu thereof the words "the defendant".

387. Page 104, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

388. Page 104, line 30, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

389. Page 104, line 31, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

390. Page 104, line 32, by inserting after the word "he" the words "or she".

391. Page 104, line 33, by striking the first word "him" and inserting in lieu thereof the words "the defendant" and by inserting after the second word "him" the words "or her".

392. Page 105, line 13, by inserting after the word "he" the words "or she".

393. Page 105, line 14, by striking the word "he" and inserting in lieu thereof the words "the defendant".

394. Page 105, line 15, by striking the word "him" and inserting in lieu thereof the words "the defendant" and by inserting after the word "he" the words "or she".

395. Page 105, line 17, by striking the word "him" and inserting in lieu thereof the words "the defendant".

396. Page 105, line 22, by inserting after the word "he" the words "or she".

397. Page 105, line 30, by striking the word "him" and inserting in lieu thereof the words "the defendant".

398. Page 106, line 4, by inserting after the word "him" the words "or her".

399. Page 106, line 5, by inserting after the word "his" the words "or her".

400. Page 106, line 12, by striking the word "his" and inserting in lieu thereof the words "the magistrate's".

401. Page 106, line 14, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

402. Page 106, line 35, by inserting after the word "his" the words "or her".

403. Page 107, line 2, by inserting after the word "his" the words "or her".

404. Page 107, line 5, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

405. Page 107, line 10, by inserting after the word "he" the words "or she".

406. Page 108, line 23, by striking the word "He" and inserting in lieu thereof the words "The juror".

407. Page 108, line 28, by striking the word "He" and inserting in lieu thereof the words "The juror".

408. Page 108, line 30, by striking the word "He" and inserting in lieu thereof the words "The juror".

409. Page 108, line 32, by striking the word "He" and inserting in lieu thereof the words "The juror".

410. Page 109A, line 2, by striking the word "He" and inserting lieu thereof the words "The juror".

411. Page 109A, line 3, by striking the word "He" and inserting in lieu thereof the words "The juror".

412. Page 109A, line 4, by striking the word "him" and inserting in lieu thereof the words "the juror".

413. Page 109A, line 26, by striking the word "him" and inserting in lieu thereof the words "the sheriff".

414. Page 111, line 16, by inserting after the word "his" the words "or her".

415. Page 112A, line 6, by inserting after the word "him" the words "or her".

416. Page 112A, line 10, by striking the word "he" and inserting in lieu thereof the words "the witness".

417. Page 112A, line 11, by striking the word "he" and inserting in lieu thereof the words "the

judge".

418. Page 112A, line 12, by inserting after the word "he" the words "or she" and by inserting after the word "his" the words "or her".

419. Page 112A, line 13, by striking the word "him" and inserting in lieu thereof the words "the witness".

420. Page 114, line 12, by inserting after the word "his" the words "or her".

421. Page 114, line 14, by inserting after the word "his" the words "or her".

422. Page 114, line 27, by striking the word "he" and inserting in lieu thereof the words "the accused".

423. Page 115, line 18, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

424. Page 115, line 23, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

425. Page 116, line 6, by inserting after the word "his" the words "or her".

426. Page 116, line 10, by striking the word "he" and inserting in lieu thereof the words "the prosecuting attorney".

427. Page 120, line 22, by striking the word "he" and inserting in lieu thereof the words "the defendant".

428. Page 120, line 23, by inserting after the word "his" the words "or her".

429. Page 120, line 24, by inserting after the first word "he" the words "or she" and by inserting after the second word "he" the words "or she".

430. Page 120, line 25, by striking the word "him" and inserting in lieu thereof the words "the defendant".

431. Page 120, line 26, by striking the word "him" and inserting in lieu thereof the words "the defendant".

432. Page 120, line 30, by striking the word "him" and inserting in lieu thereof the words "the defendant".

433. Page 120, line 31, by striking the word "him" and inserting in lieu thereof the words "the defendant".

434. Page 120, line 33, by inserting after the word "he" the words "or she".

435. Page 120, line 35, by inserting after the first word "he" the words "or she", by inserting after the word "his" the words "or her", and by inserting after the second word "he" the words "or she".

436. Page 121, line 1, by inserting after the word "his" the words "or her".

437. Page 121, line 2, by striking the word "him" and inserting in lieu thereof the words "the defendant".

438. Page 121, line 3, by inserting after the first word "he" the words "or she" and by striking the second word "he" and inserting in lieu thereof the words "the defendant".

439. Page 121, line 4, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the defendant".

440. Page 121, line 6, by striking the word "he" and inserting in lieu thereof the words "the defendant".

441. Page 121, line 7, by inserting after the word "his" the words "or her".

442. Page 121, line 9, by striking the word "him" and inserting in lieu thereof the words "the defendant".

443. Page 121, line 34, by striking the word "he" and inserting in lieu thereof the words "the defendant".

444. Page 122, line 2, by inserting after the word "him" the words "or her".

445. Page 123, line 4, by inserting after the word "his" the words "or her".

446. Page 123, line 5, by inserting after the word "he" the words "or she" and by inserting after the word "his" the words "or her".

447. Page 124, line 18, by inserting after the word "his" the words "or her".

448. Page 124, line 28, by striking the word "his" and inserting in lieu thereof the words "the county attorney's".

449. Page 126, line 7, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

450. Page 127A, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

451. Page 128, line 8, by striking the word "he" and inserting in lieu thereof the words "the defendant".

452. Page 128, line 18, by striking the word "he" and inserting in lieu thereof the words "the defendant".

453. Page 131, line 8, by striking the word "him" and inserting in lieu thereof the words "the

defendant".

454. Page 131, line 30, by inserting after the word "his" the words "or her".

455. Page 131, line 34, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

456. Page 132, line 8, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

457. Page 132, line 12, by striking the word "him" and inserting in lieu thereof the words "the other party".

458. Page 132, line 23, by inserting after the word "his" the words "or her".

459. Page 132, line 31, by inserting after the word "his" the words "or her".

460. Page 132, line 33, by inserting after the word "his" the words "or her".

461. Page 133, line 6, by striking the word "him" and inserting in lieu thereof the words "the prosecuting attorney".

462. Page 134, line 2, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

463. Page 134, line 14, by inserting after the word "his" the words "or her".

464. Page 135A, line 10, by inserting after the word "his" the words "or her".

465. Page 136, line 25, by striking the word "him" and inserting in lieu thereof the words "the witness".

466. Page 136, line 30, by inserting after the word "he" the words "or she".

467. Page 136, line 31, by striking the word "he" and inserting in lieu thereof the words "the juror".

468. Page 136, line 33, by striking the word "he" and inserting in lieu thereof the words "the juror".

469. Page 136, line 34, by inserting after the word "his" the words "or her".

470. Page 137, line 2, by inserting after the word "him" the words "or her".

471. Page 137, line 4, by inserting after the word "him" the words "or her".

472. Page 137, line 6, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

473. Page 137, line 11, by inserting after the word "him" the words "or her".

474. Page 137, line 12, by striking the word "his" and inserting in lieu thereof the words "witnesses".

475. Page 137, line 13, by inserting after the

word "he" the words "or she".
476. Page 137, line 19, by inserting after the word "his" the words "or her".
477. Page 137, line 24, by inserting after the word "him" the words "or her" and by inserting after the word "himself" the words "or herself".
478. Page 137, line 27, by inserting after the word "his" the words "or her".
479. Page 138, line 31, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
480. Page 139, line 35, by striking the word "him" and inserting in lieu thereof the words "the juror".
481. Page 140, line 12, by inserting after the word "his" the words "or her".
482. Page 140, line 15, by striking the word "him" and inserting in lieu thereof the words "the defendant".
483. Page 140, line 27, by striking the word "him" and inserting in lieu thereof the words "the juror".
484. Page 140, line 30, by striking the word "his" and inserting in lieu thereof the words "the juror"
485. Page 140, line 32, by striking the word "he" and inserting in lieu thereof the words "the juror".
486. Page 140, line 35, by striking the word "he" and inserting in lieu thereof the words "the juror".
487. Page 141, line 4, by striking the word "he" and inserting in lieu thereof the words "the juror".
488. Page 141, line 7, by inserting after the word "his" the words "or her".
489. Page 141, line 10, by striking the word "he" and inserting in lieu thereof the words "the juror".
490. Page 141, line 13, by striking the word "his" and inserting in lieu thereof the words "the juror's".
491. Page 141, line 14, by inserting after the word "him" the words "or her".
492. Page 143, line 29, by inserting after the word "he" the words "or she".
493. Page 143, line 32, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the attorney for the defendant".
494. Page 143, line 33, by striking the word "he" and inserting in lieu thereof the words "the attorney for the defendant".
495. Page 144, line 3, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
496. Page 144, line 4, by striking the first word "his" and by inserting after the second word "his"

the words "or her".

497. Page 144, line 13; by striking the word "his" and inserting in lieu thereof the words "the defendant's".

498. Page 144, line 14, by striking the word "him" and inserting in lieu thereof the words "the defendant".

499. Page 144, line 28, by striking the word "his" and inserting in lieu thereof the words "the witness'".

500. Page 144, line 31, by inserting after the word "he" the words "or she".

501. Page 144, line 32, by inserting after the word "he" the words "or she".

502. Page 145, line 2, by inserting after the word "he" the words "or she".

503. Page 145, line 3, by striking the word "he" and inserting in lieu thereof the words "the prosecutor".

504. Page 145, line 4, by striking the word "he" and inserting in lieu thereof the words "the prosecutor".

505. Page 145, line 14, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

506. Page 145, line 16, by inserting after the word "his" the words "or her".

507. Page 146, line 6, by inserting after the first word "he" the words "or she" and by striking the second word "he" and inserting in lieu thereof the words "the juror".

508. Page 148, line 3, by inserting after the word "himself" the words "or herself".

509. Page 148, line 33, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the defendant".

510. Page 148, line 35, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

511. Page 149, line 8, by striking the word "he" and inserting in lieu thereof the words "the judge".

512. Page 149, line 15, by inserting after the word "he" the words "or she" and by inserting after the word "himself" the words "or herself".

513. Page 149, line 23, by inserting after the first word "he" the words "or she" and by inserting after the second word "he" the words "or she".

514. Page 149, line 24, by inserting after the word "he" the words "or she".

515. Page 149, line 25, by inserting after the

word "his" the words "or her".
516. Page 150, line 5, by inserting after the word "his" the words "or her".
517. Page 150, line 17, by striking the word "he" and inserting in lieu thereof the words "the offender".
518. Page 150, line 18, by inserting after the word "he" the words "or she".
519. Page 150, line 19, by inserting after the word "he" the words "or she".
520. Page 150, line 20, by striking the first word "he" and inserting in lieu thereof the words "the offender" and by inserting after the second word "he" the words "or her".
521. Page 150, line 31, by striking the word "he" and inserting in lieu thereof the words "the offender".
522. Page 150, line 32, by inserting after the first word "he" the words "or she" and by striking the second word "he" and inserting in lieu thereof the words "the offender".
523. Page 151, line 5, by inserting after the word "his" the words "or her".
524. Page 151, line 6, by striking the word "he" and inserting in lieu thereof the words "the defendant".
525. Page 151, line 7, by inserting after the word "himself" the words "or herself" and by striking the word "he" and by inserting in lieu thereof the words "the defendant".
526. Page 151, line 19, by inserting after the first word "him" the words "or her", by inserting after the second word "him" the word "or her", and by inserting after the word "his" the words "or her".
527. Page 151, line 31, by inserting after the word "him" the words "or her".
528. Page 152, line 10, by striking the word "he" and inserting in lieu thereof the words "the witness".
529. Page 152, line 14, by striking the word "him" and inserting in lieu thereof the words "the witness".
530. Page 152, line 15, by striking the word "him" and inserting in lieu thereof the words "the witness".
531. Page 155, line 16, by striking the word "he" and inserting in lieu thereof the words "the defendant".
532. Page 155, line 31, by inserting after the word "his" the words "or her".
533. Page 156, line 16, by striking the word "he" and inserting in lieu thereof the words "the defendant".
534. Page 156, line 20, by striking the word "him" and inserting in lieu thereof the words "the

defendant".
535. Page 156, line 23, by striking the word "him" and inserting in lieu thereof the words "the defendant".
536. Page 156, line 25, by inserting after the word "he" the words "or she".
537. Page 156, line 30, by striking the word "he" and inserting in lieu thereof the words "the defendant".
538. Page 156, line 34, by striking the word "he" and inserting in lieu thereof the words "the defendant".
539. Page 157, line 14, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
540. Page 157, line 19, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
541. Page 157, line 22, by striking the word "him" and inserting inlieu thereof the words "the defendant".
542. Page 157, line 23, by striking the word "him" and inserting in lieu thereof the words "the defendant".
543. Page 157, line 27, by inserting after the word "he" the words "or she".
544. Page 157, line 28, by inserting after the word "his" the words "or her".
545. Page 157, line 30, by inserting after the word "he" the words "or she".
546. Page 157, line 32, by striking the word "He" and inserting in lieu thereof the words "The defendant".
547. Page 157, line 33, by inserting after the word "he" the words "or she".
548. Page 158, line 1, by striking the word "he" and inserting in lieu thereof the words "the defendant".
549. Page 158, line 2, by striking the word "his" and inserting in lieu thereof the words "the defendant's".
550. Page 158, line 3, by striking the word "he" and inserting in lieu thereof the words "the defendant".
551. Page 158, line 15, by inserting after the word "his" the words "or her".
552. Page 159, line 34, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the defendant".
553. Page 161, line 8, by inserting after the

word "he" the words "or she".

554. Page 161, line 13; by striking the word "him" and inserting in lieu thereof the words "the defendant".

555. Page 161, line 19, by striking the word "he" and inserting in lieu thereof the words "the defendant".

556. Page 161, line 20, by inserting after the word "his" the words "or her".

557. Page 162, line 8, by striking the word "he" and inserting in lieu thereof the words "the defendant".

558. Page 162, line 9, by inserting after the word "his" the words "or her".

559. Page 163, line 16, by inserting after the word "his" the words "or her".

560. Page 163, line 17, by striking the word "he" and inserting in lieu thereof the words "the sheriff".

561. Page 163, line 18, by striking the word "his" and inserting in lieu thereof the words "the sheriff's".

562. Page 164, line 4, by striking the word "him" and inserting in lieu thereof the words "the sheriff" and by inserting after the word "he" the words "or she".

563. Page 164, line 5, by striking the word "his" and inserting in lieu thereof the words "the sheriff's".

564. Page 164, line 12, by inserting after the word "he" the words "or she".

565. Page 164, line 33, by striking the word "he" and inserting in lieu thereof the words "the defendant".

566. Page 165A, line 2, by inserting after the word "himself" the words "or herself".

567. Page 165A, line 4, by striking the word "his" and inserting in lieu thereof the words "the defendant".

568. Page 165A, line 22, by striking the word "him" and inserting in lieu thereof the words "the defendant" and by inserting after the word "he" the words "or she".

569. Page 165A, line 23, by inserting after the word "himself" the words "or herself".

570. Page 165A, line 24, by striking the first word "him" and inserting in lieu thereof the words "the defendant" and by striking the second word "him" and inserting in lieu thereof the words "the defendant".

571. Page 165A, line 26, by inserting after the

word "his" the words "or her".
572. Page 165B, line 40, by inserting after the word "him" the words "or her" and by striking the word "his" and inserting in lieu thereof the words "the defendant's".
573. Page 166A, line 2, by striking the word "he" and inserting in lieu thereof the words "the defendant".
574. Page 166A, line 22, by striking the word "him" and inserting in lieu thereof the words "the person".
575. Page 166B, line 53, by striking the word "him" and inserting in lieu thereof the words "the defendant".
576. Page 171, line 35, by striking the word "him" and inserting in lieu thereof the words "such person".
577. Page 172, line 21, by striking the word "him" and inserting in lieu thereof the words "such person".
578. Page 172, line 32, by striking the word "him" and inserting in lieu thereof the words "such person".
579. Page 172, line 34, by striking the word "him" and inserting in lieu thereof the words "such person" and by striking the word "he" and inserting in lieu thereof the words "such person".
580. Page 173, line 15, by striking the word "him" and inserting in lieu thereof the words "such person".
581. Page 173, line 30, by striking the word "he" and inserting in lieu thereof the words "such person".
582. Page 174, line 4, by striking the word "he" and inserting in lieu thereof the words "such person".
583. Page 174, line 5, by striking the word "he" and inserting in lieu thereof the words "such person".
584. Page 174, line 25, by striking the word "him" and inserting in lieu thereof the words "such person".
585. Page 175, line 1, by striking the word "him" and inserting in lieu thereof the words "the officer" and by striking the word "his" and inserting in lieu thereof the words "the officer's".
586. Page 175, line 10, by striking the word "him" and inserting in lieu thereof the words "such person".
587. Page 175, line 10, by striking the word "him" and inserting in lieu thereof the words "such person".
588. Page 182, line 17, by striking the word "his" and inserting in lieu thereof the words "the clerk's".
589. Page 182, line 31, by striking the word "his" and inserting in lieu thereof the words "the magistrate's".
590. Page 182, line 34, by striking the word "his" and inserting in lieu thereof the words "the clerk's".
591. Page 183, line 2, by striking the word "his"

and inserting in lieu thereof the words "the clerk's".

592. Page 183, line 7, by striking the word "him" and inserting in lieu thereof the words "the defendant".

593. Page 183, line 16, by striking the word "him" and inserting in lieu thereof the words "the defendant".

594. Page 183, line 17, by inserting after the first word "him" the words "or her", by striking the second word "him" and inserting in lieu thereof the words "the defendant", and by striking the word "he" and inserting in lieu thereof the words "the defendant".

595. Page 183, line 18, by inserting after the word "he" the words "or she" and by inserting after the word "his" the words "or her".

596. Page 183, line 19, by inserting after the first word "he" the words "or she", by striking the second word "he" and inserting in lieu thereof the words "the defendant", and inserting after the word "his" the words "or her".

597. Page 183, line 20, by striking the word "he" and inserting in lieu thereof the words "the defendant".

598. Page 183, line 21, by inserting after the word "he" the words "or she".

599. Page 183, line 22, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the defendant".

600. Page 183, line 26, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

601. Page 183, line 27, by striking the word "he" and inserting in lieu thereof the words "the defendant".

602. Page 183, line 28, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

603. Page 183, line 29, by inserting after the word "his" the words "or her".

604. Page 183, line 30, by striking the word "he" and inserting in lieu thereof the words "the defendant".

605. Page 183, line 31, by inserting after the word "he" the words "or she" and by inserting after the word "him" the words "or her".

606. Page 184, line 11, by striking the word "He" and inserting in lieu thereof the words "The magistrate".

607. Page 186, line 13, by inserting after the word "he" the words "or she".

608. Page 186, line 22, by inserting after the word "his" the words "or her".

609. Page 187, line 28, by inserting after the word "he" the words "or she".

610. Page 187, line 30, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

611. Page 188, line 1, by striking the word "his" and inserting in lieu thereof the words "the magistrate's".

612. Page 188, line 2, by striking the word "his" and inserting in lieu thereof the words "the magistrate's".

613. Page 189, line 5, by striking the word "him" and inserting in lieu thereof the words "the defendant".

614. Page 193, line 31, by inserting after the word "his" the words "or her".

615. Page 194, line 2, by striking the word "his" and inserting in lieu thereof the words "the clerk's".

616. Page 194, line 5, by inserting after the word "his" the words "or her".

617. Page 194, line 17, by inserting after the word "him" the words "or her".

618. Page 194, line 18, by inserting after the word "he" the words "or she".

619. Page 195, line 12, by striking the word "he" and inserting in lieu thereof the words "the defendant".

620. Page 195, line 14, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

621. Page 196, line 28, by striking the word "his" and inserting in lieu thereof the words "the defendant's" and by striking the word "he" and inserting in lieu thereof the words "the defendant".

622. Page 197, line 2, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

623. Page 197, line 3, by striking the word "him" and inserting in lieu thereof the words "the defendant".

624. Page 197, line 14, by striking the word "him" and inserting in lieu thereof the words "the clerk".

625. Page 197, line 32, by inserting after the word "his" the words "or her".

626. Page 198, line 21, by inserting after the word "his" the words "or her".

627. Page 200, line 1, by striking the word "he" and inserting in lieu thereof the words "such attorney" and by inserting after the word "his" the words "or her".

628. Page 200, line 29, by striking the word "he" and inserting in lieu thereof the words "the defendant".

629. Page 202, line 23, by inserting after the word "he" the words "or she".

630. Page 203, line 10, by inserting after the word "him" the words "or her".

631. Page 204, line 15, by striking the word "his" and inserting in lieu thereof the words "the person's".

632. Page 204, line 19, by inserting after the word "his" the words "or her".

633. Page 204, line 21, by striking the word "his" and inserting in lieu thereof the words "the person's".

634. Page 204, line 29, by inserting after the word "his" the words "or her".

635. Page 204, line 34, by inserting after the word "his" the words "or her".

636. Page 205, line 33, by striking the word "him" and inserting in lieu thereof the words "the fugitive".

637. Page 205, line 34, by inserting after the word "his" the words "or her" and by inserting after the word "he" the words "or she".

638. Page 206, line 2, by striking the word "his" and inserting in lieu thereof the words "the fugitive's".

639. Page 206, line 3, by striking the word "his" and inserting in lieu thereof the words "the fugitive's".

640. Page 206, line 8, by inserting after the word "his" the words "or her".

641. Page 206, line 10, by striking the word "he" and inserting in lieu thereof the words "the fugitive".

642. Page 206, line 13, by striking the word "him" and inserting in lieu thereof the words "the fugitive".

643. Page 206, line 26, by striking the word "him" and inserting in lieu thereof the words "the agent".

644. Page 206, line 27, by striking the first word "him" and inserting in lieu thereof the words "the agent" and by striking the second word "him" and inserting in lieu thereof the words "the fugitive".

645. Page 207, line 10, by striking the first word "him" and inserting in lieu thereof the words "the fugitive", by striking the second word "him" and inserting in lieu thereof the words "the fugitive", and by inserting after the word "he" the words "or she".

646. Page 207, line 17, by inserting after the word "his" the words "or her".

647. Page 207, line 21, by inserting after the word "he" the words "or she".

648. Page 207, line 33, by inserting after the word "his" the words "or her".

649. Page 208, line 7, by striking the word "he" and inserting in lieu thereof the words "the judge or magistrate" and by striking the word "his" and inserting in lieu thereof the words "the prisoner's".

650. Page 208, line 8, by striking the word "him" and inserting in lieu thereof the words "the judge or magistrate".

651. Page 208, line 9, by striking the word "his" and inserting in lieu thereof the words "the prisoner's".

652. Page 211, line 22, by striking the word "he" and inserting in lieu thereof the words "the judge".

653. Page 212, line 7, by striking the word "he" and inserting in lieu thereof the words "the witness".

654. Page 212, line 14, by striking the word "he" and inserting in lieu thereof the words "the witness" and by inserting after the word "his" the words "or her".

655. Page 212, line 16, by inserting after the word "he" the words "or she".

656. Page 212, line 19, by striking the word "him" and inserting in lieu thereof the words "the person".

657. Page 212, line 20, by striking the word "he" and inserting in lieu thereof the words "the person".

658. Page 212, line 22, by striking the word "his" and inserting in lieu thereof the words "the person's".

659. Page 212, line 26, by striking the word "he" and inserting in lieu thereof the words "the person".

660. Page 212, line 29, by striking the word "his" and inserting in lieu thereof the words "the person's".

661. Page 213A, line 35, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

662. Page 213B, line 37, by striking the word "his" and inserting in lieu thereof the words "the victim's".

663. Page 214, line 5, by inserting after the word "his" the words "or her".

664. Page 215, line 27, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

665. Page 216A, line 15, by striking the word "him" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the

words "or her".

666. Page 216A, line 16, by striking the word "he" and inserting in lieu thereof the words "the person".

667. Page 216A, line 18, by striking the first word "his" and inserting in lieu thereof the words "the person's" and by striking the second word "his" and inserting in lieu thereof the words "the person's".

668. Page 216A, line 19, by striking the word "he" and inserting in lieu thereof the words "the person".

669. Page 216A, line 24, by striking the word "him" and inserting in lieu thereof the words "the person".

670. Page 216B, line 37, by striking the word "him" and inserting in lieu thereof the words "the person".

671. Page 217A, line 13, by striking the word "him" and inserting in lieu thereof the words "the person".

672. Page 217A, line 14, by striking the word "his" and inserting in lieu thereof the words "the person's".

673. Page 217A, line 18, by inserting after the word "his" the words "or her".

674. Page 217A, line 20, by inserting after the word "his" the words "the person's".

675. Page 217B, line 39, by inserting after the word "his" the words "or her".

676. Page 217B, line 40, by striking the word "he" and inserting in lieu thereof the words "the person".

677. Page 217B, line 49, by striking the word "he" and inserting in lieu thereof the words "the person".

678. Page 218, line 8, by striking the word "he" and inserting in lieu thereof the words "the person".

679. Page 218, line 9, by inserting after the word "his" the words "or her".

680. Page 218, line 33, by striking the word "he" and inserting in lieu thereof the words "the commissioner".

681. Page 218, line 35, by striking the word "him" and inserting in lieu thereof the words "such person".

682. Page 219, line 5, by striking the word "his" and iserting in lieu thereof the words "the person's".

683. Page 219, line 6, by inserting after the word "his" the words "or her".

684. Page 219, line 7, by striking the word "his" and inserting in lieu thereof the words "the person's".

685. Page 219, line 14, by striking the word "his" and inserting in lieu thereof the words "the person's".
686. Page 219, line 20, by striking the word "his" and inserting in lieu thereof the words "the person's".
687. Page 219, line 23, by striking the word "he" and inserting in lieu thereof the words "the person".
688. Page 219, line 26, by striking the word "he" and inserting in lieu thereof the words "the person".
689. Page 220A, line 23, by striking the word "him" and inserting in lieu thereof the words "the person".
690. Page 221, line 28, by inserting after the word "his" the words "or her".
691. Page 221, line 29, by inserting after the word "his" the words "or her".
692. Page 221, line 31, by striking the word "chairman" and inserting in lieu thereof the word "chairperson".
693. Page 222, line 23, by inserting after the word "his" the words "or her".
694. Page 222, line 26, by inserting after the word "his" the words "or her".
695. Page 223, line 28, by striking the word "his" and inserting in lieu thereof the words "the person's".
696. Page 223, line 29, by inserting after the word "him" the words "or her" and by inserting after the word "his" the words "or her".
697. Page 224, line 11, by inserting after the word "his" the words "or her".
698. Page 224, line 12, by inserting after the word "his" the words "or her".
699. Page 224, line 13, by striking the word "his" and inserting in lieu thereof the words "the prisoner's".
700. Page 224, line 32, by striking the word "his" and inserting in lieu thereof the words "the person's".
701. Page 224, line 33, by striking the word "his" and inserting in lieu thereof the words "the person's".
702. Page 225A, line 15, by inserting after the word "himself" the words "or herself".
703. Page 225A, line 16, by striking the word "himself" and inserting in lieu thereof the words "the person" and by inserting after the word "he" the words "or she".
704. Page 225A, line 22, by striking the word "him" and inserting in lieu thereof the words "the person".
705. Page 225A, line 24, by striking the word "him" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the

words "or her".

706. Page 225A, line 27, by striking the word "his" and inserting in lieu thereof the words "the person's".

707. Page 225A, line 29, by striking the word "his" and inserting in lieu thereof the words "the person's".

708. Page 225B, line 39, by striking the word "him" and inserting in lieu thereof the words "the person".

709. Page 227A, line 6, by striking the word "he" and inserting in lieu thereof the words "the person".

710. Page 227A, line 8, by striking the word "he" and inserting in lieu thereof the words "the person".

711. Page 227A, line 12, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

712. Page 227A, line 13, by inserting after the word "his" the words "or her".

713. Page 227A, line 14, by striking the word "he" and inserting in lieu thereof the words "the person".

714. Page 227A, line 16, by striking the word "him" and inserting in lieu thereof the words "the person".

715. Page 227A, line 17, by striking the word "him" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

716. Page 228, line 9, by inserting after the word "his" the words "or her".

717. Page 228, line 15, by inserting after the word "his" the words "or her".

718. Page 228, line 21, by inserting after the word "his" the words "or her".

719. Page 228, line 22, by striking the word "his" and inserting in lieu thereof the words "the person's".

720. Page 228, line 29, by striking the word "him" and inserting in lieu thereof the words "the person".

721. Page 228, line 30, by striking the word "his" and inserting in lieu thereof the words "the person's".

722. Page 229, line 2, by striking the word "his" and inserting in lieu thereof the words "or her".

723. Page 230, line 12, by inserting after the word "he" the words "or she".

724. Page 230, line 13, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

725. Page 231, line 14, by striking the word "his"

and inserting in lieu thereof the words "the defendant's".

726. Page 231, line 16, by striking the first word "his" and inserting in lieu thereof the words "the defendant's" and by striking the second word "his" and inserting in lieu thereof the words "the defendant's".

727. Page 232, line 16, by striking the word "he" and inserting in lieu thereof the words "the person" and by inserting after the word "his" the words "or her".

728. Page 232, line 17, by striking the word "his" and inserting in lieu thereof the words "the person's".

729. Page 232, line 18, by striking the word "he" and inserting in lieu thereof the words "the person".

730. Page 232, line 20, by striking the first word "him" and inserting in lieu thereof the words "the person" and by striking the second word "him" and inserting in lieu thereof the words "the person".

731. Page 232, line 21, by inserting after the word "his" the words "or her".

732. Page 232, line 31, by striking the word "his" and inserting in lieu thereof the words "the chief probation officer's".

733. Page 233, line 10, by striking the word "him" and inserting in lieu thereof the words "the county attorney".

734. Page 233, line 11, by striking the word "him" and inserting in lieu thereof the words "the defendant".

735. Page 233, line 13, by striking the word "his" and inserting in lieu thereof the words "the defendant's" and by inserting after the word "he" the words "or she".

736. Page 233, line 15, by striking the word "him" and inserting in lieu thereof the words "the defendant".

737. Page 233, line 16, by striking the word "he" and inserting in lieu thereof the words "the defendant".

738. Page 233, line 17, by inserting after the word "his" the words "or her".

739. Page 233, line 28, by inserting after the word "his" the words "or her".

740. Page 234, line 11, by striking the word "him" and inserting in lieu thereof the words "the person".

741. Page 234, line 13, by striking the word "him" and inserting in lieu thereof the words "the person".

742. Page 235, line 20, by inserting after the word "his" the words "or her".

743. Page 235, line 35, by inserting after the word "he" the words "or she".

744. Page 236, line 1, by striking the word "he" and inserting in lieu thereof the words "the defendant".

745. Page 236, line 4, by inserting after the word "he" the words "or she".

746. Page 236, line 6, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

747. Page 236, line 21, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

748. Page 236, line 30, by striking the first word "his" and inserting in lieu thereof the words "the defendant's", by striking the second word "his" and inserting in lieu thereof the words "the defendant's", by striking the third word "his" and inserting in lieu thereof the words "the defendant's", and by striking the fourth word "his" and inserting in lieu thereof the words "the defendant's".

749. Page 236, line 31, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

750. Page 236, line 32, by striking the word "his" and inserting in lieu thereof the words "the defendant's".

751. Page 237, line 2, by inserting after the word "his" the words "or her".

752. Page 238A, line 6, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the parole officer".

753. Page 238A, line 10, by inserting after the word "his" the words "or her" and by striking the words "he" and inserting in lieu thereof the words "the magistrate".

754. Page 238A, line 17, by inserting after the word "his" the words "or her".

755. Page 238A, line 21, by inserting after the word "he" the words "or she".

756. Page 238B, line 40, by inserting after the word "his" the words "or her".

757. Page 238B, line 41, by inserting after the word "him" the words "or her" and by striking the word "He" and inserting in lieu thereof the words "The alleged parole violator".

758. Page 238B, line 43, by inserting after the word "his" the words "or her" and by striking the word "He" and inserting in lieu thereof the words

"The alleged parole violator".

759. Page 238B, line 45, by inserting after the word "him" the words "or her".

760. Page 238B, line 46, by striking the word "his" and inserting in lieu thereof the word "witness'".

761. Page 239, line 4, by inserting after the word "him" the words "or her" and by striking the word "his" and inserting in lieu thereof the words "the alleged violator's".

762. Page 239, line 5, by inserting after the word "he" the words "or she".

763. Page 239, line 6, by inserting after the word "his" the words "or her" and by striking the word "he" and inserting in lieu thereof the words "the alleged violator".

764. Page 239, line 7, by inserting after the word "he" the words "or she".

765. Page 239, line 15, by inserting after the word "his" the words "or her" and by striking the word "him" and inserting in lieu thereof the words "the arrested person".

766. Page 239, line 18, by inserting after the word "his" the words "or her".

767. Page 239, line 19, by striking the word "him" and inserting in lieu thereof the words "the arrested person".

768. Page 239, line 22, by striking the word "him" and inserting in lieu thereof the words "the arrested person".

769. Page 239, line 25, by striking the word "him" and inserting in lieu thereof the words "the liaison officer".

770. Page 239, line 26, by striking the word "him" and inserting in lieu thereof the words "the liaison officer" and by inserting after the word "his" the words "or her".

771. Page 240, line 8, by inserting after the word "his" the words "or her".

772. Page 240, line 28, by striking the word "him" and inserting in lieu thereof the words "the alleged violator" and by inserting after the word "his" the words "or her".

773. Page 240, line 29, by striking the word "him" and inserting in lieu thereof the words "the alleged violator" and by inserting after the word "he" the words "or she".

774. Page 240, line 31, by inserting after the word "he" the words "or she".

775. Page 240, line 34, by inserting after the

word "his" the words "or her".

776. Page 241, line 1, by inserting after the word "his" the words "or her".

777. Page 241, line 2, by inserting after the word "his" the words "or her".

778. Page 241, line 3, by inserting after the word "him" the words "or her".

779. Page 241, line 8, by striking the word "his" and inserting in lieu thereof the words "the parolee's".

780. Page 241, line 10, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

781. Page 241, line 17, by inserting after the word "his" the words "or her".

782. Page 243, line 14, by inserting after the word "his" the words "or her".

783. Page 243, line 33, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the governor".

784. Page 245, line 4, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the state auditor".

785. Page 245, line 13, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the state auditor".

786. Page 249, line 16, by inserting after the word "his" the words "or her".

787. Page 249, line 18, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

788. Page 250, line 20, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the employee".

789. Page 250, line 23, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the employee's".

790. Page 252, line 12, by inserting after the word "he" the words "or she".

791. Page 252, line 35, by inserting after the word "his" the words "or her".

792. Page 253, line 20, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the incumbent's".

793. Page 254, line 8, by inserting after the word "his" the words "or her".

794. Page 254, line 9, by inserting after the word "his" the words "or her".

795. Page 254, line 10, by inserting after the word "his" the words "or her".

796. Page 254, line 11, by inserting after the word "him" the words "or her" and by inserting after the word "he" the words "or she".

797. Page 254, line 16, by inserting after the word "his" the words "or her".

798. Page 254, line 18, by inserting after the word "he" the words "or she".

799. Page 254, line 24, by inserting after the word "his" the words "or her".

800. Page 254, line 26, by inserting after the word "his" the words "or her".

801. Page 255, line 9, by inserting after the word "he" the words "or she".

802. Page 255, line 10, by inserting after the word "himself" the words "or herself".

803. Page 257, line 14, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the employee's".

804. Page 258, line 14, by inserting after the word "he" the words "or she".

805. Page 258, line 21, by inserting after the word "his" the words "or her".

806. Page 258, line 22, by inserting after the word "his" the words "or her".

807. Page 260, line 1, by inserting after the word "his" the words "or her".

808. Page 260, line 3, by inserting after the word "his" the words "or her".

809. Page 260, line 24, by inserting after the word "him" the words "or her".

810. Page 260, line 25, by inserting after the word "his" the words "or her".

811. Page 261, line 1, by inserting after the word "his" the words "or her".

812. Page 261, line 8, by inserting after the word "he" the words "or she" and by inserting after the word "him" the words "or her".

813. Page 261, line 9, by inserting after the word "his" the words "or her".

814. Page 261, line 21, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

815. Page 263, line 27, by inserting after the word "his" the words "or her".

816. Page 263, line 34, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the employer".

817. Page 264, line 1, by inserting after the word "his" the words "or her".

818. Page 266, line 1, by striking the word "he"

and inserting in lieu thereof the words "~~he~~ the person".

819. Page 267, line 34, by inserting after the word "his" the words "or her".

820. Page 270, line 6, by inserting after the word "him" the words "or her".

821. Page 270, line 14, by inserting after the word "his" the words "or her".

822. Page 272, line 24, by inserting after the word "himself" the words "or herself".

823. Page 275, line 16, by inserting after the word "he" the words "or she".

824. Page 280, line 4, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the executive officer".

825. Page 280, line 11, by inserting after the word "his" the words "or her".

826. Page 290, line 24, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

827. Page 291, line 17, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

828. Page 296, line 2, by inserting after the word "his" the words "or her".

829. Page 297, line 2, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

830. Page 297, line 17, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

831. Page 298, line 9, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

832. Page 299, line 18, by inserting after the word "him" the words "or her".

833. Page 300, line 30, by inserting after the word "him" the words "or her".

834. Page 301, line 1, by inserting after the word "him" the words "or her".

835. Page 301, line 29, by inserting after the word "his" the words "or her".

836. Page 304, line 26, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the owner's".

837. Page 305, line 6, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the veterinarian's".

838. Page 305, line 7, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the

veterinarian".

839. Page 311, line 2, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the person" and by inserting after the word "he" the words "or she".

840. Page 311, line 8, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the officer".

841. Page 313, line 13, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the secretary" and by striking the word "he" and inserting in lieu thereof the words "~~him~~ the secretary".

842. Page 313, line 17, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the secretary".

843. Page 313, line 18, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the secretary".

844. Page 313, line 27, by inserting after the word "himself" the words "or herself" and by inserting after the word "his" the words "or her".

845. Page 313, line 33, by inserting after the word "himself" the words "or herself" and by inserting after the word "his" the words "or her".

846. Page 314, line 11, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

847. Page 314, line 32, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the secretary's".

848. Page 314, line 33, by inserting after the word "his" the words "or her".

849. Page 316, line 8, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the secretary's".

850. Page 319, line 14, by inserting after the word "his" the words "or her".

851. Page 320, line 11, by inserting after the word "him" the words "or her".

852. Page 322, line 18, by inserting after the word "himself" the words "or herself" and by inserting after the word "his" the words "or her".

853. Page 323, line 30, by inserting after the word "his" the words "or her".

854. Page 326, line 1, by inserting after the word "him" the words "or her".

855. Page 326, line 2, by inserting after the word "him" the words "or her".

856. Page 326, line 3, by inserting after the word "him" the words "or her".

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857. Page 326, line 6, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

858. Page 333, line 5, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the officer".

859. Page 335, line 10, by inserting after the word "him" the words "or her".

860. Page 338, line 2, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

861. Page 346, line 11, by inserting after the word "his" the words "or her".

862. Page 347, line 27, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

863. Page 347, line 28, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

864. Page 351, line 12, by inserting after the word "he" the words "or she".

865. Page 351, line 18, by inserting after the word "he" the words "or she".

866. Page 352, line 3, by inserting after the word "his" the words "or her".

867. Page 352, line 20, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

868. Page 354, line 18, by inserting after the word "he" the words "or she".

869. Page 355, line 33, by inserting after the word "he" the words "or she".

870. Page 356, line 3, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the secretary's".

871. Page 357, line 23, by inserting after the word "him" the words "or her".

872. Page 357, line 24, by inserting after the word "him" the words "or her".

873. Page 357, line 29, by inserting after the word "him" the words "or her".

874. Page 358, line 13, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

875. Page 362, line 17, by inserting after the word "his" the words "or her".

876. Page 362, line 19, by striking the first word "he" and inserting in lieu thereof the words "~~he~~ the person" and by striking the second word "he" and inserting in lieu thereof the words "~~he~~ the

person".

877. Page 363, line 14, by inserting after the word "his" the words "or her".

878. Page 363, line 18, by inserting after the word "his" the words "or her".

879. Page 363, line 19, by striking the word "he" and inserting in lieu thereof the words "the person".

880. Page 364, line 9, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

881. Page 364, line 10, by inserting after the word "him" the words "or her".

882. Page 364, line 33, by inserting after the word "he" the words "or she".

883. Page 365, line 3, by inserting after the word "him" the words "or her".

884. Page 365, line 9, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the treasurer or auditor".

885. Page 365, line 10, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

886. Page 366, line 1, by inserting after the word "himself" the words "or herself".

887. Page 366, line 3, by inserting after the word "he" the words "or she".

888. Page 366, line 11, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the treasurer's".

889. Page 366, line 29, by inserting after the word "him" the words "or her".

890. Page 366, line 32, by inserting after the word "he" the words "or she", by inserting after the first word "his" the words "or her", and by inserting after the second word "his" the words "or her".

891. Page 368, line 18, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

892. Page 369, line 28, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

893. Page 372, line 8, by inserting after the word "he" the words "or she".

894. Page 378, line 9, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the person" and by striking the word "his" and inserting in lieu thereof the words "~~his~~ such person's".

895. Page 378, line 11, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

896. Page 381, line 1, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the officer or director".

897. Page 382, line 8, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the commissioner's".

898. Page 382, line 13, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the commissioner's".

899. Page 382, line 29, by inserting after the word "his" the words "or her".

900. Page 383, line 3, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

901. Page 383, line 33, by inserting after the word "his" the words "or her".

902. Page 383, line 34, by inserting after the word "his" the words "or her".

903. Page 384, line 14, by inserting after the word "himself" the words "or herself".

904. Page 384, line 18, by inserting after the word "his" the words "or her".

905. Page 385, line 27, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the director or officer".

906. Page 394, line 11, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the commissioner's".

907. Page 403, line 27, by inserting after the word "he" the words "or she".

908. Page 404, line 3, by inserting after the word "he" the words "or she".

909. Page 404, line 5, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

910. Page 404, line 7, by inserting after the word "he" the words "or she".

911. Page 404, line 8, by inserting after the word "he" the words "or she".

912. Page 404, line 11, by inserting after the word "he" the words "or she".

913. Page 404, line 12, by inserting after the word "he" the words "or she".

914. Page 404, line 17, by striking the first word "he" and inserting in lieu thereof the words "the person" and by inserting after the second word "he" the words "or she".

915. Page 404, line 20, by inserting after the word "he" the words "or she".

916. Page 404, line 31, by inserting after the

word "he" the words "or she".

917. Page 405, line 6, by inserting after the word "he" the words "or she".

918. Page 405, line 9, by inserting after the first word "his" the words "or her" and by inserting after the second word "his" the words "or her".

919. Page 405, line 11, by inserting after the word "he" the words "or she".

920. Page 405, line 12, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

921. Page 405, line 16, by inserting after the word "he" the words "or she".

922. Page 405, line 17, by inserting after the word "he" the words "or she".

923. Page 405, line 22, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

924. Page 406, line 34, by inserting after the word "he" the words "or she".

925. Page 407, line 30, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the person".

926. Page 408, line 2, by inserting after the word "his" the words "or her".

927. Page 412, line 29, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the tenant".

928. Page 415, line 34, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the citizens' aide's".

929. Page 416A, line 1, by inserting after the word "his" the words "or her".

930. Page 417, line 5, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the person's".

931. Page 417, line 12, by inserting after the word "his" the words "or her".

932. Page 417, line 13, by inserting after the word "his" the words "or her".

933. Page 417, line 32, by inserting after the word "he" the words "or she".

934. Page 418, line 5, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the public official".

935. Page 418, line 28, by striking the word "he" and inserting in lieu thereof the words "~~he~~ the juror".

936. Page 418, line 31, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the juror's".

937. Page 418, line 33, by striking the word "his" and inserting in lieu thereof the words "~~his~~ the juror".

938. Page 420, line 9, by striking the word "him" and inserting in lieu thereof the words "~~him~~ the plaintiff" and by striking the word "he" and inserting in lieu thereof the words "~~he~~ the defendant".

S-5603 FILED - Concurred in 4 5/7 (1806)
APRIL 28, 1976 Pasting on remaining divisions

S-5629

Amend the House amendment, S-5603 to Senate File 85 as amended, passed and reprinted as follows:

1. Page 18, line 31, by inserting after the word "pardoned" the words "or has had his or her civil rights restored". A

2. Page 18, line 32, by striking the words "state and who is ex-" and inserting in lieu thereof the word "state." B

3. Page 18, by striking lines 33 through 36.

S-5629 FILED - Adopted 5/3 (1678-79)
APRIL 29, 1976 B- Reconsidered and lost 5/7 (1797) BY GENE W. GLENN

S-5635

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted as follows:

1. Page 72, lines 26 and 27, by striking the words "to persons eighteen years of age or older".

2. Page 72, lines 29 and 30, by striking the words "eighteen years of age and older".

S-5635 FILED - Adopted 5/5 (p. 1719)
APRIL 30, 1976

BY GENE W. GLENN

S-5634

Amend the House amendment S-5603 to Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 70, by striking line 28 and inserting in lieu thereof the words "for all traffic violations, whether or not scheduled, and for all other scheduled violations shall be remitted".

2. Page 70, by striking line 34 and inserting in lieu thereof the following:

"1. Traffic violations, whether or not scheduled, and all other scheduled violations may be tried".

3. Page 70, by striking line 39 and inserting in lieu thereof the words "~~traffic~~ such violations, other than those for".

S-5634 FILED - Ruled out of order with adoption of 5692 5/6 (1745)
APRIL 30, 1976

BY GENE W. GLENN

S-5633

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted as follows:

1. Page 5, line 46, by inserting after the word "person" the word "intentionally".

S-5633 FILED - Adopted 5/3 (1673)
APRIL 30, 1976

BY EARL M. WILLITS

S-5632

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted as follows:

1. Page 48, line 34, by striking the word "paragraph" and inserting in lieu thereof the word "subsection".

S-5632 FILED - Adopted 5/4 (1702)
APRIL 30, 1976

BY GENE W. GLENN

S-5646

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 2, by inserting after line 5 the following:

"____. Page 5, line 11, by inserting after the word "burglary" the words "in the first degree".

S-5646 FILED - *Adopted 5/4 (1698)*
MAY 3, 1976

BY GENE W. GLENN

S-5647

Amend House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 16, by striking lines 47 and 48 and inserting in lieu thereof the following:

"of any crime defined in Division VIII of this Act, except "assault" as defined in section eight hundred one (801) of this Act and "harassment" as defined in section eight hundred eight (808) of this Act.""

S-5647 FILED & ADOPTED *(1679)*
MAY 3, 1976

BY LUCAS J. DE KOSTER
EUGENE M. HILL

S-5648

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 10, line 19, by striking the words ""such person or another"" and inserting in lieu thereof the words ""either party"".

S-5648 FILED - *Adopted 5/7 (1777)*
MAY 3, 1976

BY JAMES M. REDMOND

S-5637

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted as follows:

1. Page 22, by striking line 35, and inserting in lieu thereof the following: "WITHOUT A LICENSE. Unless a penalty is specifically provided, any person who carries on or trans-".

2. Page 22, line 36, by striking the word "act" and inserting in lieu thereof the word "acts".

S-5637 FILED - *Withdrawn 5/7 (1779)*
APRIL 30, 1976

BY GENE W. GLENN

S-5638

Amend the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate, page 5, by inserting after line 25 the following:

"____. Page 13A, by inserting after line 20 the following:

"DIVISION _____.

Sec. ____. NEW SECTION. DEFINITIONS. As used in this division:

1. "Racketeering activity" means any act or threat involving an aggravated misdemeanor or a felony under the laws of this state.

2. "Pattern of racketeering activity" means at least two separate acts of racketeering activity, at least one of which occurred after the effective date of this Act, that have the same or similar purposes, results, participants, victims, or methods of commission, or that are otherwise interrelated by distinguishing characteristics and not isolated events.

3. "Unlawful debt" means a debt for a thing of value which is incurred or contracted in violation of chapters ninety-nine A (99A), ninety-nine B (99B), five hundred thirty-five (535), or five hundred thirty-seven (537) of the Code and which is incurred or contracted at an interest rate at least twice the lawful rate.

4. "Attorney general" means the attorney general or a designee, including a state agency.

5. "Enterprise" means a natural person, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

6. "Person" means any natural person or entity capable of holding a legal or beneficial interest in property.

Sec. ____. NEW SECTION. PROHIBITED ACTIVITIES.

1. A person shall not directly or indirectly receive income from a pattern of racketeering activity or through a collection of an unlawful debt in which this person has participated as a principal, to directly or indirectly use or invest this income or its proceeds in the acquisition of an enterprise which is engaged in or the activities of which affect commerce in this state. This subsection does not prohibit the purchase of securities on the open market for purposes of investment and without the intention of controlling or participating in the control of the issuer or of assisting another to do so if the securities of the issuer held by the purchaser, the members of the purchaser's family within the fifth degree of

consanguinity or affinity, or the purchaser's accomplices in any pattern of racketeering activity or the collection of an unlawful debt after this purchase do not amount in the aggregate to one percent of the outstanding securities of any one class and do not confer the power, either in law or in fact, to elect one or more directors of the issuer.

2. A person shall not directly or indirectly acquire or maintain through a pattern of racketeering activity or through a collection of an unlawful debt any interest in or control of any enterprise which is engaged in or the activities of which affect commerce in this state.

3. A person employed by or associated with an enterprise engaged in or the activities of which affect commerce in this state shall not directly or indirectly conduct or participate in this enterprise's affairs through a pattern of racketeering activities or through a collection of an unlawful debt.

4. A person shall not conspire to violate the provisions of subsection one (1), two (2), or three (3) of this section.

Sec. ____. NEW SECTION. CRIMINAL PENALTIES.

1. A person who violates the provisions of this division shall be, upon conviction, fined not to exceed twenty-five thousand dollars, imprisoned in the state penitentiary not to exceed twenty years, or both so fined and imprisoned.

2. In addition to the penalty prescribed under subsection one (1) of this section, a person who violates the provisions of this division shall, upon conviction, forfeit to the state:

a. Any interest acquired or maintained in violation of this division; and

b. Any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which this person has established, operated, conducted, or participated in the conduct of in violation of this division.

3. In any prosecution brought under this section, a district court may enter restraining orders or injunctions and take other appropriate action such as requiring a satisfactory performance bond with regard to any property or interest subject to forfeiture.

4. Upon conviction of a person under this section, a district court shall authorize the attorney general to seize all property or interests declared forfeited under this section under designated terms and

conditions. If a forfeited property right or other interest is not exercisable in favor of the state, it shall expire and not revert to the convicted person. The state shall dispose of forfeited property and interests as soon as commercially feasible, making due provision for the rights of innocent persons.

Sec. ____. NEW SECTION. CIVIL REMEDIES.

1. Upon petition of the attorney general, a district court may prevent or restrain violations under this division by issuing appropriate orders. These orders may include:

a. Ordering a person to divest of any direct or indirect interest in an enterprise.

b. Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise is engaged in if this endeavor affects commerce in this state.

c. Ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

2. Any action brought by the attorney general under this section shall proceed as soon as practicable to hearing and final determination. Prior to final determination, a district court may enter restraining orders or injunctions and take other appropriate action such as requiring a satisfactory performance bond.

3. In addition to any action brought by the attorney general under this section, a person injured by a violation of this division may recover up to threefold the damages sustained and court costs, including a reasonable attorney fee.

4. A criminal conviction under this division shall estop a civil defendant under this section from denying the essential elements of this defendant's criminal offense.

5. Any civil action or proceeding brought under this section shall be brought in the district court in whose jurisdiction the defendant resides, is found, has an agent, or transacts the defendant's affairs.

6. In any proceeding ancillary to or any civil action brought by the attorney general, the district court may close the proceedings after considering the rights of affected persons.""

S-5638 FILED - Withdrawn 5/7 (1802)
APRIL 30, 1976

BY WILLIAM P. WINKELMAN

S-5639

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate, as follows:

1. Page 10, by striking lines 23 through 25.

S-5639 FILED - Adopted 5/7 (1777)
MAY 3, 1976

BY GENE W. GLENN

S-5640

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows;

1. Page 3, by striking lines 3 through 5 and inserting in lieu thereof the words "expressly or tacitly acquiesce in and was not one".

S-5640 FILED - Adopted 5/7 (1777)
MAY 3, 1976

BY RICHARD R. RAMSEY

S-5643

Amend the House amendment, S-5603 to Senate File 85 as amended, passed and reprinted as follows:

1. Page 18, line 45, by striking the figure, ",", and inserting in lieu thereof the word "or".

2. Page 18, by striking lines 46 through 49, and inserting in lieu thereof "apparatus."

S-5643 FILED - Lost 5/6 (1759)
MAY 3, 1976

BY EARL M. WILLITS

S-5644

Amend the House Amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 1, by adding after line 17 the following:

"Page 3, by striking lines 20 and 21, and inserting in lieu thereof the following:

Sec. 202. NEW SECTION. ACT OR ACTION. The terms "act" or "action" mean a bodily movement whether voluntary or involuntary and include a failure to do any act which the law requires an individual to perform." A

2. Page 6, by striking lines 30 and 31, and inserting in lieu thereof the following:

"68. Page 13B, by striking lines 61-65 and inserting in lieu thereof the following:

Sec. 705. NEW SECTION. INVOLUNTARY MANSLAUGHTER.

1. A person commits a class D felony when the person unintentionally causes the death of another person during the commission of a public offense other than a forcible felony or an escape." B

S-5644 FILED 2 # Withdrawn 5/7 (1776)
MAY 3, 1976

BY JAMES M. REDMOND

S-5654

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 7, line 15, by striking the word and figures "59B, line 62" and inserting in lieu thereof the word and figures "15B, lines 62 and 63".

S-5654 FILED - adopted 5/5 (1725)
MAY 3, 1976

BY JAMES M. REDMOND

S-5651

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 1, by striking lines 31 through 46.

2. Page 4, by inserting after line 20 the following:

"___. Page 10, by inserting after line 29 the following:

"Sec. ___. NEW SECTION. DEATH. "Death" means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician, 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 person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.

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 defined in paragraph one (1) of this section, shall not be criminally liable for such cessation of medical attention.""

S-5651 FILED - adopted 5/5 (1720)
MAY 3, 1976

BY JAMES M. REDMOND

S-5653

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 10, by striking lines 36 through 38.

S-5653 FILED - adopted 5/6 (1752)
MAY 3, 1976

BY JAMES M. REDMOND

SENATE FILE 85

S-5670

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 8, by inserting after line 38 the following:

"___. Page 19A, line 14, by striking the word "child" and inserting in lieu thereof the words "person under the age of sixteen years"."

2. Page 9, line 41, by striking the word "child" and inserting in lieu thereof the words "person under the age of sixteen years".

S-5670 FILED - Withdrawn 5/6 (1758)
MAY 5, 1976

BY EUGENE M. HILL

S-5685

Amend the House amendment S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 4, lines 31 and 32, by striking the figure and word ", sapient".

2. Page 4, line 40, by striking the figure and word ", sapient".

S-5685 FILED & ADOPTED (1725)
MAY 5, 1976

BY STEVE SOVERN

S-5686

Amend the Redmond amendment S-5677, to page 4 of the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 1, line 4, by striking the figure "20" and inserting in lieu thereof the figure "10".

S-5686 FILED - Adopted 5/7 (1773)
MAY 5, 1976

BY JAMES M. REDMOND

SENATE FILE 85

S-5649

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 7, by inserting after line 4 the following:

"___. Page 15B, line 42, by inserting after the word "person" the word "or"".

S-5649 FILED - Withdrawn 5/7 (1777)
MAY 3, 1976

BY JAMES M. REDMOND

S-5657

Amend the House amendment S-5603 to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 49, by striking from line 36 through page 51, line 27, and inserting in lieu thereof the following:

"__. Page 337, line 11, by inserting after the word "while" the words "having ten or more hundredths of one per centum by weight of alcohol in the blood or while".

__. Page 337, line 15, by inserting after the word "offense" the words "and shall be imprisoned in the county jail not less than two days".

__. Page 337, line 19, by inserting after the word "offense" the words "and shall be imprisoned in the county jail not less than two days"."

2. Page 51, by inserting after line 27 the following:

"__. Page 337, by inserting after line 28 the following:

"Sec. __. Section three hundred twenty-one point two hundred eighty-one (321.281), unnumbered paragraphs five (5) and six (6), Code 1975, are amended to read as follows:

This section shall not apply to a person operating a motor vehicle while under the influence of a narcotic, hypnotic or other drug if such substances were prescribed for such person and have been taken under such prescription and in accordance with the directions of a ~~reputable doctor of medicine~~ medical practioner as defined in section one hundred fifty-five point three (155.3), subsection eleven (11), of the Code, provided however there is no evidence of the consumption of alcohol and further provided said ~~doctor of medicine~~ medical practioner has not directed such person to refrain from operating a motor vehicle.

~~For the purposes of this section, evidence that there was, at the time, more than ten hundredths of one per centum by weight of alcohol in his blood shall be admitted as presumptive evidence that the defendant was under the influence of an alcoholic beverage.~~ No previous conviction for, or plea of guilty to, an offense under this section occurring more than six years prior to the date of the violation being charged shall be used to determine that the violation being charged is a second, third or subsequent offense.""

3. Page 51, lines 44 through 47 by striking the words ", notwithstanding the provisions of section

three hundred twenty-one point two hundred twelve (321.212) of the Code,".

4. Page 51, line 49, by striking the word "twenty" and inserting in lieu thereof the words "~~twenty~~ eighty".

5. Page 51, by striking line 50 through page 52, line 11 and inserting in lieu thereof the words "year; or if the person is a".

6. By renumbering the sections and paragraphs to conform with this amendment.

S-5657 FILED - adopted 5/5 (p. 1716) vote 23-19
MAY 3, 1976

BY WILLIAM N. PLYMAT
KENNETH D. SCOTT
BERL E. PRIEBE
CLOYD E. ROBINSON
EARL M. WILLITS
FORREST V. SCHWENGELS
WILLIAM E. GLUBA
ROGER J. SHAFF
EUGENE M. HILL
ELIZABETH R. MILLER
LEONARD C. ANDERSEN
IRVIN L. BERGMAN

S-5657 - adopted

S-5650

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 8, line 50A, by striking the figure "100.".

2. Renumber subsequent paragraphs to conform with this amendment.

S-5650 FILED - adopted 5/5 (1727)
MAY 3, 1976

BY JAMES M. REDMOND

SENATE FILE 85

S-5655

Amend the House amendment S-5603, to Senate File 85 as amended, passed and reprinted as follows:

1. Page 21, by striking lines 36 through 41.

S-5655 FILED & LOST (p. 1680)
MAY 3, 1976

BY EUGENE M. HILL

S-5658

Amend Senate amendment, S-5657 to House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 1, by striking lines 11 through 16 and inserting in lieu thereof the following:

"___. Page 337, by striking lines 14 through 28 and inserting in lieu thereof the following: "be punished for the first offense by a fine of not ~~less than three hundred dollars nor~~ more than one thousand dollars, ~~or~~ and by imprisonment in the county jail for a period of not ~~to exceed~~ less than two days nor more than one year~~, or by both such fine and imprisonment~~; for the second offense by a fine of not ~~less than five hundred dollars, nor~~ more than ~~one~~ five thousand dollars, ~~or~~ and by imprisonment in the penitentiary for a period of not to exceed ~~one year~~ two years or in the county jail for a period not less than two days ~~, or by both such fine and imprisonment~~; and for a third offense and each offense thereafter by a fine not to exceed one thousand dollars or by imprisonment in the penitentiary for any term of years not ~~less than one or~~ more than five, and the court may pronounce sentence for a lesser period than the maximum, the provisions of the indeterminate sentence law to the contrary notwithstanding or by both such fine and imprisonment.""

2. Page 2, by inserting after line 8 the following:

"___. Page 72, by inserting after line 40 the following:

"Sec. ___. The provisions of this Act amending sections three hundred twenty-one point two hundred eighty-one (321.281) and three hundred twenty-one B point seven (321B.7) of the Code shall take effect July 1, 1976.""

3. By renumbering the sections and paragraphs to conform to this amendment.

S-5658 FILED - A. Withdrawn, B. Lost 5/5 (1715)
MAY 3, 1976

BY WILLIAM N. PLYMAT

S-5666

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted as follows:

1. Page 17, by striking lines 29 through 46.

S-5666 FILED - Adopted 5/6 (1754)
MAY 4, 1976

BY LEONARD C. ANDERSEN

S-5664

Amend the Senate amendment S-5659 to the House amendment S-5603, page 4, to Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 1, line 24, by striking the figure and word ", sapient".
2. Page 1, line 43, by striking the figure and word ", sapient".
3. Page 2, line 1, by striking the figure and word ", sapient".
4. Page 2, lines 15 and 16, by striking the figure and word ", sapient".
5. Page 2, line 27, by striking the figure and word ", sapient".
6. Page 3, line 3, by striking the figure and word ", sapient".

S-5664 FILED - Adopted 5/5 (1723)
MAY 4, 1976

BY STEVE SOVERN

SENATE FILE 85

S-5667

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 17, by adding after line 46 the following:

"A holder of a liquor license or beer permit or any owner, manager, or person who exercises direct control over any licensed premises defined in section one hundred twenty-three point three (123.3), subsection thirty-one (31) of the Code shall not sell or transfer to another a firearm on the licensed premises. A person who violates the provisions of this paragraph shall be guilty of a simple misdemeanor."

S-5667 FILED - Out of order with adoption of 5666 5/6 (1755)
MAY 4, 1976

BY STEVE SOVERN
JAMES M. REDMOND

S-5669

Amend the House amendment S-5603 to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 21, by striking lines 36 through 41 and inserting in lieu thereof the following:

"The provisions of this section shall not apply to a theater, concert hall, art gallery, museum, or similar establishment provided that the performance, display or exhibit, whether live or pictorial, has serious literary, scientific, political or artistic value and taken as a whole is not patently offensive or designed to appeal to the prurient interest applying contemporary community standards."

S-5669 FILED - Withdrawn 5/7 (1799)
MAY 5, 1976

BY EUGENE M. HILL

S-5659

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 4, by striking lines 23 through 44 and inserting in lieu thereof the following:

"__. Page 11, by inserting after line 24 the following new division:

"DIVISION __

TERMINATION OF LIFE SUPPORT SYSTEMS

Sec. __. NEW SECTION. PETITION. A petition to terminate the life support apparatus of a patient of a hospital may be filed with the district court of the county in which the patient is hospitalized by the patient's spouse, the patient's guardian, or a person who is related to the patient within the second degree of consanguinity. The petition shall be in equity and shall name the state as the respondent. The petition shall contain a description of the patient's injury or illness, the treatment which the patient is receiving, and an affidavit by at least one physician licensed by this state testifying that there is no reasonable possibility of the patient ever emerging from a present comatose condition to a cognitive, sapient state and that the life support apparatus now being administered to the patient should be discontinued.

Sec. __. NEW SECTION. APPOINTMENT OF PHYSICIANS. Within five days of the filing of the petition the district court shall appoint three physicians with recognized competence and expertise in the disease or injury suffered by the patient. One physician shall be appointed at the request of the petitioners, one physician shall be appointed upon the recommendation of the county medical association of the county in which the patient is hospitalized, and one physician shall be appointed by the court.

Sec. __. NEW SECTION. INSTRUCTIONS TO PHYSICIANS. Upon the appointment of the three physicians the court shall instruct the physicians that they are to immediately examine the patient to determine whether there is a reasonable possibility of the patient ever emerging from a present comatose condition to a cognitive, sapient state and whether the life support apparatus now being administered to the patient should be discontinued.

Sec. __. NEW SECTION. AFFIDAVIT TO THE COURT. Upon the completion of their examination each of the three physicians shall file an affidavit with the court stating whether there is a reasonable possibility of the patient ever emerging from a present comatose

condition to a cognitive, sapient state whether the life support apparatus now being administered to the patient should be discontinued. The affidavit shall be accompanied by a detailed statement of the patient's injury or disease, the medical treatment the patient is receiving, and the basis upon which the physician reached his or her conclusions.

Sec. __. NEW SECTION. HEARING--NOTIFICATION OF PARTIES. Upon receipt of the affidavits from the physicians the court shall forward to the hospital in which the patient is hospitalized, the respondent, and the petitioners a copy of each of the affidavits. If all three physicians concur that there is not a reasonable possibility of the patient ever emerging from a present comatose condition to a cognitive, sapient state and that the life support apparatus now being administered to the patient should be discontinued, the court shall set a date for hearing which shall be not less than five days nor more than thirty days from the filing of the last affidavit and shall immediately notify the hospital in which the patient is hospitalized, the respondent, and the petitioners of the time and place of the hearing. If all three physicians do not concur that there is not a reasonable possibility of the patient ever emerging from a present comatose condition to a cognitive, sapient state and that the life support apparatus now being administered to the patient should not be discontinued, the court shall dismiss the petition and notify the hospital in which the patient is hospitalized, the respondent, and the petitioners of the dismissal.

Sec. __. NEW SECTION. HEARING.

1. The hearing shall be held before the court and neither the petitioner nor the respondent may be granted a jury trial.

2. Except where inconsistent with this division, the rules of civil procedure shall apply to the conduct of the hearing.

3. The attorney general of the state shall represent the state at the hearing and during all other proceedings under this division.

4. The petitioner, the respondent, and the hospital in which the patient is hospitalized shall be allowed to introduce any witness or evidence which is relevant and material to the issue and both parties shall be allowed to cross-examine the other's witnesses and evidence.

Sec. __. NEW SECTION. COURT ORDER. If the court finds by clear and convincing evidence that there

is not a reasonable possibility of the patient ever emerging from a present comatose condition to a cognitive, sapient state and that the life support apparatus now being administered to the patient should be discontinued, the court shall order that the life support apparatus be discontinued as soon as possible after the time for filing an appeal has elapsed.

Sec. __. NEW SECTION. APPEAL. An appeal from a decision under this division shall be taken as provided in the rules of civil procedure, except that an appeal must be taken within ten days of the court order and appellate court shall give such appeals priority over all other civil and criminal appeals."

S-5659 FILED - Lost 5/5 (1723)
MAY 3, 1976

BY JAMES M. REDMOND
RICHARD R. RAMSEY

S-5660

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 28, by adding after line 39 the following:

"____. Page 90, by striking lines 19 through 28.

S-5660 FILED & WITHDRAWN (1694)
MAY 4, 1976

S-5661

BY RICHARD R. RAMSEY

Amend the Redmond amendment, S-5659, to the House amendment, S-5603, to Senate File 85, as follows:

1. Page 2, line 40, by striking the words "attorney general of the state", and inserting in lieu thereof the words "county attorney in the county where the patient is hospitalized".

S-5661 FILED - Adopted 5/5 (1723)
MAY 4, 1976

S-5665

BY JAMES M. REDMOND

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 10, line 28, by striking the word "'state'." and inserting in lieu thereof the words "state department of health".

S-5665 FILED - Adopted 5/6 (1751)
MAY 4, 1976

BY JAMES M. REDMOND

S-5662

Amend the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate as follows:

1. Page 48, line 33, by inserting after the word "misdemeanor." the following: "In lieu of the penalty provided in section two hundred four point four hundred one (204.401), subsection one (1), paragraph b of the Code, any person who manufactures, delivers, or possesses with the intent to manufacture or deliver one ounce or less of marijuana shall, upon conviction be imprisoned in the county jail for not to exceed six months or be fined not to exceed one thousand dollars or be subject to both such fine and imprisonment." — S-5662A WITHDRAWN (1701)

2. Page 48, line 39, by striking the words "All records pertaining to". — S-5662B ADOPTED (1701)

3. Page 48, by striking lines 40 and 41.

4. Page 48, line 42, by striking the word "judgment."

5. Page 48, by striking line 46 through page 49, line 7.

6. Page 71, by striking line 16 and inserting in lieu thereof the words and figures "figures two hundred four point four hundred ten (204.410), two hundred twenty-three point three (223.3),". — S-5662C OUT OF ORDER (1706)

S-5662 FILED - B Adopted 5/4 (1701)
MAY 4, 1976 A. Withdrawn, C - Out of order

BY RICHARD R. RAMSEY

S-5663

Amend the House Amendment S-5603 to Senate File 85, as amended, passed and reprinted by the Senate, as follows:

1. Page 32, by striking lines 1 and 2 and inserting in lieu thereof the following:

"___. Page 130B, line 37, by striking the word "either" and inserting in lieu thereof the word "any".

___. Page 130B, by striking lines 42 through 57 and inserting in lieu thereof the following:

"b. The information sought by way of deposition cannot adequately be disclosed by a bill of particulars and is necessary in order that the defendant receive a fair trial.

c. Other circumstances necessitating discovery by deposition, provided that:

1. The prospective witness to be deposed has not previously been examined at a preliminary hearing by the party requesting the deposition; and,

2. Prior to the taking of any deposition, a list of all witnesses expected to be called by the moving party at trial is furnished to the nonmoving party. Those witnesses shall be subject to pretrial discovery by the nonmoving party. Notwithstanding the provisions of this subparagraph, if the moving party is the defendant, the moving party need not disclose whether or not the defendant intends to testify at trial.""

S-5663 FILED - Adopted as amended by 5659 5/6 (1721)

BY RICHARD R. RAMSEY

Amend House amendment S-5603 to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 51, lines 44 through 47, by striking the words ", notwithstanding the provisions of section three hundred twenty-one point two hundred twelve (321.212) of the Code,".

2. Page 51, line 49, by striking the words "one hundred twenty" and inserting in lieu thereof the words "~~one hundred twenty~~ two hundred forty".

3. Page 51, by striking line 50 through page 52, line 11 and inserting in lieu thereof the words "year; or if the person is a".

4. Page 52, by inserting after line 20 the following:

"Sec. ____. Chapter three hundred twenty-one B (321B), Code 1975, is amended by adding the following new section:

NEW SECTION. If a person under arrest submits to the chemical testing and the test reveals that the person had ten or more hundredths of one per centum by weight of alcohol in the blood, the results of the test shall be forwarded to the director and the director shall revoke that person's license or permit to drive for a period of not less than one hundred twenty days if the person has no prior conviction of the provisions of section three hundred twenty-one point two hundred eighty-one (321.281) of the Code during the previous six years, two hundred forty days if the person has one such prior conviction, and a year if the person has two or more such prior convictions.

Sec. ____. Section three hundred twenty-one B point eight (321B.8), Code 1975, is amended to read as follows:

321B.8 HEARING. Upon the written request of a person whose privilege to drive has been revoked or denied, the director shall grant the person an opportunity to be heard within twenty days after the receipt of the request, but the request must be made within thirty days of the effective date of revocation or denial. The hearing shall be before the director, in the county wherein the alleged events occurred for which the person was arrested, unless the director and the person agree that the hearing may be held in some other county. The hearing may be recorded and its scope shall cover the issues of whether a peace officer had reasonable grounds to believe the person to have been operating a motor vehicle upon a public highway of this state while under the

influence of an alcoholic beverage, whether the person was placed under arrest and whether he refused to submit to the test or tests or whether the test was properly administered and revealed ten or more per centum by weight of alcohol in the blood. The director shall order that the revocation or denial be either rescinded or sustained."

5. By renumbering the sections to conform with this amendment.

S-5671 FILED & WITHDRAWN (1716)

BY RICHARD R. RAMSEY
MINNETTE DODERER

S-5673

Amend Senate amendment S-5671 to House amendment S-5603 to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 1, line 32, by inserting after the word "convictions." the words "The director may grant a temporary restricted license for persons whose licenses are so revoked and such licenses shall be subject to the conditions provided in section three hundred twenty-one point two hundred ten (321.210), unnumbered paragraph seven (7), of the Code."

BY RICHARD R. RAMSEY
RAY TAYLOR
CLIFTON C. LAMBORN
JIM GALLAGHER
MINNETTE DODERER
RICHARD J. NORPEL, SR.
C. JOSEPH COLEMAN

S-5673 FILED & WITHDRAWN (1716)
MAY 5, 1976

SENATE FILE 85

S-5674

Amend the Plymat et al. amendment, S-5657, to the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 1, line 13, by striking the word "two" and inserting in lieu thereof the word "one".
2. Page 1, by striking lines 14 through 16.

S-5674 FILED & WITHDRAWN (1716)

BY WILLIAM E. GLUBA

S-5678

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 28, by striking lines 40 and 41 and inserting in lieu thereof the following:

"___. Page 94, by striking lines 19 through 21 and inserting in lieu thereof: "be guilty of a misdemeanor. In addition nothing shall limit".

S-5678 FILED - Withdrawn 5/6 (1754)
MAY 5, 1976

BY JAMES M. REDMOND

S-5679

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 8, line 12, by striking the word "When" and inserting in lieu thereof the word "If".

S-5679 FILED & ADOPTED (1727)
MAY 5, 1976

BY JOAN ORR

S-5676

Amend the Redmond amendment S-5659 to page 4 of the House amendment (S-5603) to Senate File 85 as amended, passed and reprinted by the Senate, as follows:

1. Page 1, by inserting after line 9, the following new sections:

"Sec.____. NEW SECTION. TWO METHODS OF TERMINATING LIFE SUPPORT SYSTEMS. Life support systems for a comatose patient may be discontinued by either of the following two methods:

1. Upon receipt by the patient's attending physician of the original living will containing the provision and executed in the manner provided for in this division, and in accordance with the procedures provided in this division for termination of life support systems upon receipt of a living will.

2. Upon a court order pursuant to a petition in accordance with the procedure provided in this division for termination by petition and court order.

Sec.____. NEW SECTION. LIVING WILL. A living will to be valid to authorize termination of life support systems must:

1. Be executed in the same manner as for testamentary wills as provided in sections six hundred thirty-three point two hundred seventy-nine (633.279) and six hundred thirty-three point two hundred eighty (633.280) of the Code, provided that the living will must be a separate instrument from any testamentary will or codicil; and,

2. Contain a provision that should injury or illness reduce the person executing the will to a comatose state without reasonable possibility of ever emerging to a cognitive state, they desire that life support systems be discontinued; and,

3. Be filed with the clerk of the court of the county in which the person is residing at the time of the execution of the instrument.

Sec.____. NEW SECTION. PROCEDURE TO OBTAIN THE LIVING WILL. If a patient's attending physician believes there is no reasonable possibility of the patient ever emerging from the present comatose condition to a cognitive state, the physician shall in writing request two other physicians to examine the patient stating his or her opinion and requesting their opinion. If both physicians inform the attending physician in writing that they also believe there is no reasonable possibility of the patient ever emerging from the present comatose condition to a cognitive state, the attending physician may deliver the three written opinions to the court together with the attending physician's request that the living will of the person be delivered to the

requesting physician.

Sec. ___. NEW SECTION. ACTION BY THE CLERK OF THE COURT. The clerk of the court of each county shall maintain a file and index for living wills separate from other records. Upon receipt by the clerk of a request by an attending physician accompanied by three written opinions as to the person's state, the clerk shall deliver to the attending physician the requested person's living will.

Sec. ___. NEW SECTION. PROCEDURE UPON RECEIPT OF THE LIVING WILL. Upon receipt by the attending physician of the patient's living will, the physician may terminate the patient's life support systems."

2. Page 3, by inserting after line 13, the following new section:

"Sec. ___. NEW SECTION. CRIMINAL LIABILITY. No person who discontinues life support apparatus pursuant to this division shall be criminally liable for such discontinuance."

S-5676 FILED & ADOPTED (1723)
MAY 5, 1976

BY RICHARD R. RAMSEY

S-5677

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 4, by striking lines 8 through 20, and inserting in lieu thereof the following:

"____. Page 10, by striking lines 20 through 29 and inserting in lieu thereof the following: "force 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 or should have known is charged with the commission of a misdemeanor.""

S-5677 FILED - Adopted as amended by 5868 5/7 (p. 1773)
MAY 5, 1976

BY JAMES M. REDMOND

S-5692

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted, as follows:

1. Page 56A by striking lines 25 through 27, and page 57 by striking lines 1 through 36, and inserting in lieu thereof the following:

"508. Page 78, by striking lines 33 through 35 and inserting in lieu thereof the following:

"Sec. 505. NEW SECTION. FAILURE TO APPEAR.

1. 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 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 citation attached to the law enforcement agency which issued the original citation for enforcement of the warrant. Upon arrest of the defendant, the warrant and the original citation shall be returned to the court, and the offenses shall be heard and disposed of simultaneously. This subsection shall not apply in any case in which the citation alleges a simple misdemeanor and in which the person cited has submitted bond as provided in subsection two (2) of this section.

2. In the case of a citation which alleges the commission of a simple misdemeanor and in which the person cited has submitted an appearance bond in the form of cash, check, or guaranteed arrest bond certificate as defined in section three hundred twenty-one point one (321.1) of the Code, the court shall not issue an arrest warrant for failure to appear, but shall order a forfeiture of the bond as provided in subsection four (4) of section one thousand one hundred seven (1107) of chapter two (2) of this Act.""

2. Page 57, by inserting after line 36 the following:

"509. Page 97, by inserting after line 21 the following new subsection:

"4. The provisions of subsections one (1), two (2) and three (3) of this section shall not apply to a case in which a simple misdemeanor is charged by police citation pursuant to section five hundred five (505) of chapter two (2) of this Act or by uniform citation and complaint pursuant to section seven hundred fifty-three point fifteen (753.15) of the Code, and in which the defendant has submitted appearance bond in the form of cash, check, or guaranteed arrest bond certificate as defined in

section three hundred twenty-one point one (321.1) of the Code. Where a defendant fails to appear as required in such a case, the court shall enter a judgment of forfeiture of the bond which shall be final upon entry and shall not be set aside.""

3. Page 58, line 5, by striking the word "quadruplicate" and inserting in lieu thereof the words "~~quadruplicate~~ quintuplicate".

4. Page 58, line 7, by striking the words "a copy to" and inserting in lieu thereof the words "a ~~copy~~ two copies to".

5. Page 58, lines 14 and 15, by striking the words "and seven hundred fifty-three point six (753.6) of the Code" and inserting in lieu thereof the words "of the Code and five hundred two (502) of chapter two (2) of this Act".

6. Page 58, lines 17 and 18, by striking the words "and seven hundred fifty-three point seven (753.7) of the Code" and inserting in lieu thereof the words "and five hundred three (503) of chapter two (2) of this Act".

7. Page 58, line 29, by striking the word and figure "section 755.4" and inserting in lieu thereof the words and figures "section ~~755.4~~ four hundred seven (407) of chapter two (2) of this Act".

8. Page 58, line 45, by striking the words and figures "July 1, ~~1974~~ 1976" and inserting in lieu thereof the words and figures "~~July~~ January 1, ~~1974~~ 1978".

9. Page 59, line 15, by striking the word "~~TRAFFIC~~" and inserting in lieu thereof the words "TRAFFIC AND".

10. Page 59, line 18, by striking the word "~~traffic~~" and inserting in lieu thereof the words "traffic and".

11. Page 59, by striking lines 29 through 33 and inserting in lieu thereof the words "~~nonmoving scheduled violations~~ applicable to commercial carriers. The collection".

12. Page 61, lines 33, 34 and 35, by striking the words "three hundred twenty-one point four hundred fifteen (321.415),".

13. Page 62, by striking lines 19, 20 and 21, and inserting in lieu thereof the words "is thirty dollars."

14. Page 62, by inserting after line 23 the following new paragraph:

"Excessive speed in whatever amount by a school bus is not a scheduled violation under any section listed in a subparagraph of this paragraph F."

15. Page 66, line 18, by striking the word "ten"

and inserting in lieu thereof the word "five".

16. Page 66, lines 30 and 31, by striking the words "one hundred six point fifteen (106.15), subsection two (2),".

17. Page 67, line 12, by striking the word "ten" and inserting in lieu thereof the word "five".

18. Page 67, lines 48 and 49, by striking the words "one hundred eleven point forty-four (111.44),".

19. Page 67, line 50, and page 68, line 1, by striking the words ", one hundred eleven point forty-eight (111.48)".

20. Page 70, line 28, by striking the words "~~traffic~~ scheduled" and inserting in lieu thereof the words "traffic violations, whether or not scheduled, and for all other scheduled".

21. Page 70, line 34, by striking the words "~~Traffic~~ scheduled" and inserting in lieu thereof the words "Traffic violations, whether or not scheduled, and all other scheduled".

22. Page 70, line 39, by striking the words "~~traffic~~ scheduled" and inserting in lieu thereof the words "traffic violations, whether or not scheduled, and any other scheduled".

23. Page 70, line 45, by striking the words "~~traffic~~ scheduled" and inserting in lieu thereof the words "traffic and scheduled".

24. Page 70, by striking lines 47 through 50, and page 71 by striking lines 1 through 9.

25. By renumbering paragraphs of the amendment.

S-5692 FILED & ADOPTED (1745)
MAY 6, 1976

BY PHILIP B. HILL

S-5693

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 8, by striking lines 10 through 38.

2. Page 8, by striking everything after line 45 through page 9, line 27.

3. Page 9, by inserting after line 43 the following:

"___. Page 20A, by inserting after line 8 the following:

"Sec. ___. NEW SECTION. RESISTANCE TO SEXUAL ABUSE. Under the provisions of this division resistance by a participant shall not be deemed necessary to establish that an act of sexual abuse was committed by force and against the will of the participant.""

S-5693 FILED & WITHDRAWN (1756)
MAY 6, 1976

MINNETTE DODERER

SENATE FILE 85

S-5695

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 17, by striking lines 37 through 39 and inserting in lieu thereof the words "date, the age, occupation, place of employment or business, name and residence of the prospective purchaser."

2. Page 17, by inserting after line 46 the following:

"The provisions of this section shall not apply when the purchaser is exchanging or trading-in a serviceable revolver or pistol on a different pistol or revolver, or when the recipient has a federal firearms license of a type that authorizes dealing in revolvers and pistols."

S-5695 FILED & OUT OF ORDER with adoption of 5666 5/6 (1755)
MAY 6, 1976

BY DALE L. TIEDEN

S-5696

Amend the Tieden amendment, S-5695, to House amendment S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 1, line 13, by striking the word "recipient" and inserting in lieu thereof the word "purchaser".

2. Page 1, line 14, by inserting before the word "federal" the words "permit to carry weapons or".

S-5696 FILED & OUT OF ORDER (1755)
MAY 6, 1976

BY E. KEVIN KELLY
DALE L. TIEDEN

SENATE FILE 85

S-5689

Amend the Ramsey amendment, S-5663, to page 32 of the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 1, by inserting after line 28 the following:

"2. Page 32, by striking everything after line 2 through page 33, line 2."

S-5689 FILED & ADOPTED (1741)
MAY 6, 1976

BY RICHARD R. RAMSEY

S-5688

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 8, line 50C, by striking the word "When" and inserting in lieu thereof the word "If".

S-5688 FILED - Adopted 5/6 (1739)
MAY 5, 1976

BY JOAN ORR

S-5697

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 36, by inserting after line 32 the following:

"___. Page 213B, line 38, by inserting after the word "community" the words "and the pecuniary damages for which the victim is entitled to restitution under section two hundred six (206) or section seven hundred twelve (712), of the Iowa Corrections Code.""

2. Page 37, by inserting after line 21 the following:

"___. Page 217A, by inserting after line 20 the following:

"Terms of a person's release by order of the board of parole shall include an order to make restitution in accordance with the findings of the presentence investigation carried out under section one hundred four (104) of this chapter and with the procedure outlined in section seven hundred twelve (712) of this chapter.""

3. Page 41, by inserting after line 23 the following:

"___. Page 235, line 25, by striking all after the word "shall" and inserting in lieu thereof the following: ", in cases where restitution is appropriate, order that a restitution hearing be held before imposition of any order of probation. Any victim who may be entitled to restitution shall be given notice of the hearing and, upon that person's motion, shall be made a party to the proceeding. The defendant shall have the right to appear at the hearing and to present his or her position orally or in writing. A determination shall be made at this hearing as to defendant's present and future ability to make restitution, and a schedule of regular payments shall be made for satisfaction of any portion of the restitution which cannot be immediately paid. The court shall order the defendant to make such continuing payments as a condition of continuing probation.

The court shall make a separate finding of facts and conclusions of law, and shall order restitution, which order shall be appealable by any victim claiming restitution, or by the defendant, as a civil proceeding and in accordance with the rules of civil procedure.

Separate and apart from the court's final order, the court shall enter civil judgment against the defendant in an amount equal to the victim's actual

damages. Any part of this judgment outstanding upon termination of defendant's probation shall remain enforceable against the defendant by the victim as an ordinary civil judgment.

In any subsequent civil action arising out of the same occurrence which constitutes the offense, the amount actually paid by defendant as restitution shall be a setoff against any final judgment.

The portion of the judgment which defendant must pay as a condition of continuing probation, and the schedule of payments thereon, shall be fixed by the court according to its determination of defendant's ability to pay during probation. After notice and hearing subsequent changes in the restitution order may be made by the court on application of either a victim or the defendant demonstrating a substantial change in the circumstances occurring subsequent to the issuance of such order."

___. Page 235, by striking lines 26 through 35.

___. Page 236, by striking lines 1 through 35.

___. Page 237, by striking lines 1 through 25."

S-5697 FILED - Ruled out of order 5/7 (1780)
MAY 6, 1976

BY WILLIAM WINKELMAN

SENATE FILE 85

S-5712

Amend the House Amendment (S-5603) to Senate File 85 as amended, passed and reprinted by the Senate, as follows:

1. Page 13, line 22, by striking the word "and" and inserting in lieu thereof the word "an".

2. Page 21, line 37, by striking the word "similiar" and inserting in lieu thereof the word "similar".

3. Page 22, by striking lines 35 through 38 and inserting in lieu thereof the following: "WITHOUT A LICENSE. 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.""

4. Page 40, by striking lines 11 through 34.

5. Page 52, line 38, by striking the word "anual" and inserting in lieu thereof the word "annual".

6. Page 54, by inserting after line 46, the following:

"___. Page 381, by striking lines 10 through 17."

7. By changing paragraph and section numbers and correcting internal references as required by this amendment.

S-5712 FILED & ADOPTED (1776)
MAY 7, 1976

BY GENE W. GLENN

SENATE FILE 85

-5699

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 13, by striking lines 3 through 25 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. SEIZING DOGS. It shall be lawful for any person or peace officer to seize and impound dogs for which a license is required when the dog is not wearing a collar with a license tag attached.

If a dog is seized by a person within the unincorporated area of a county or within the corporate limits of a city that has established a dog pound or contracted for the collection and protection of dogs, the person shall notify the dog pound or incorporated society or association for the prevention of cruelty to animals, who shall take possession of the dog.

If a dog is seized by a person within the unincorporated area of a county or within the corporate limits of a city which has not provided for the collection and protection of dogs, the person shall notify the police department or sheriff respectively. The police department or sheriff may deliver the dog to the nearest dog pound, society for the prevention of cruelty to animals or animal rescue league which shall accept possession of the dog. The normal and usual fee for accepting possession of a dog shall be billed to the city or county which delivered the dog and shall be paid from their general fund if other funds have not been provided. The known owner of any dog seized by a person or impounded within the unincorporated area of a county or within the corporate limits of a city that has an established dog pound or hascontracted for the collection and protection of dogs, shall be given oral notice or written notice by mail within three days after seizure or impoundment of the dog. If the owner does not redeem the dog within five days of the date of notice, the dog may be humanely destroyed or disposed of in accordance with the law. An owner may redeem a dog by showing ownership to the appropriate authority and by paying the cost of impoundment.

Sec. ___. NEW SECTION. RIGHT TO KILL A DOG. It shall be lawful for any person to kill a licensed or unlicensed dog only when such dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person. Nothing in this section shall prohibit the use of any tranquilizing device designed to immobilize an animal to facilitate its capture if the device is designed and used in a manner to prevent serious injury. Violation of this section is a simple misdemeanor."

S-5699 FILED MAY 6, 1976 — Adopted as amended by 5711 5/7 (1775)

BY WILLIAM E. GLUBA
ROBERT M. CARR
MINNETTE DODERER

SENATE FILE 85

S-5698

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 8, by striking lines 10 through 38.

2. Page 8, by striking everything after line 45 through page 9, line 27.

3. Page 9, by inserting after line 43 the following:

"__. Page 20A, by inserting after line 8 the following:

"Sec. __. NEW SECTION. RESISTANCE TO SEXUAL ABUSE. Under the provisions of this division physical resistance by a participant shall not be deemed necessary to establish that an act of sexual abuse was committed by force and against the will of the participant.""

S-5698 FILED & ADOPTED (1757) as amended by 5700
MAY 6, 1976

BY MINNETTE DODERER

S-5700

Amend the Doderer amendment, S-5698, to the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 1, by striking lines 12 through 16 and inserting in lieu thereof the following:

"ABUSE. Under the provisions of this division it shall not be necessary to establish physical resistance by a participant in order to establish that an act of sexual abuse was committed by force and against the will of the participant."""

S-5700 FILED - Adopted 5/6 (1757)
MAY 6, 1976

BY MINNETTE DODERER

S-5701

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 8, by striking lines 10 through 38.

2. Page 8, by striking everything after line 45 through page 9, line 27.

3. Page 8, by inserting after line 9, the following:

"_____. Page 19A, by striking lines 8 and 9 and inserting in lieu thereof the following:

"2. Such act is done without the consent of the other.""

S-5701 FILED & RULED OUT OF ORDER with adoption of 5698 (1757)
MAY 6, 1976

BY EARL M. WILLITS

S-5702

Amend the House amendment, S-5603, to Senate File 85 as amended, passed and reprinted by the Senate as follows:

1. Page 17, by inserting after line 6 the following: A

"___. Page 52, by striking lines 31 and 32." B

2. Page 17, line 20, by striking the words "serial number,".

3. Page 17, by adding after line 20 the following: A

"___. Page 53, lines 11 and 12, by striking the words "A copy of this report shall be forwarded by the sheriff to the commissioner of public safety.""

4. Page 17, by inserting after line 28 the following:

"___. Page 54, line 14, by striking the words "permits authorized by this division of".

___. Page 54, line 15, by striking the words "and reports of sales of weapons.""

S-5702 FILED A-Ruled out of order, B lost
MAY 6, 1976 5/7 (1778-9)

BY WILLIAM P. WINKELMAN

S-5703

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 55, by inserting after line 11 the following:

"___. Page 415, by inserting after line 15 the following new section:

"Sec. ___. Any person who willfully violates sections six hundred one A point six (601A.6), subsection one (1), six hundred one A point seven (601A.7), subsection one (1), or six hundred one A point eight (601A.8), of the Code, shall, upon conviction be guilty of a serious misdemeanor.""

S-5703 FILED - Ruled out of order 5/7 (1781)
MAY 6, 1976

BY WILLIAM E. GLUBA

S-5704

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 36, line 47, by striking the words ""one year"" and inserting in lieu thereof the words ""six months"".

2. Page 38, line 31, by striking the words ""one year"" and inserting in lieu thereof the words ""six months"".

3. Page 38, lines 33 and 34, by striking the words ""one year"" and inserting in lieu thereof the words ""six months"".

S-5704 FILED & WITHDRAWN (1781)
MAY 6, 1976

BY RICHARD R. RAMSEY

S-5705

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 72, by inserting after line 18 the following:

"____. Page 425, line 24, by striking the words and figure "seven hundred eighty six (786),"".

S-5705 FILED - Ruled not germane 5/7 (1781)
MAY 7, 1976

BY RICHARD R. RAMSEY

S-5710

Amend the Gluba et al. amendment S-5699, to page 13, of the House amendment S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 1, line 42, by striking the word "only".

S-5710 FILED & WITHDRAWN (1775)
MAY 7, 1976

BY WILLIAM E. GLUBA

S-5711

Amend the Gluba amendment, S-5699, to page 13, to the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 1, line 49, by inserting after the word "injury." the words "This section shall not apply to any person designated by a city or county as an animal control officer or to the owner of the dog."

S-5711 FILED & ADOPTED (1775)
MAY 7, 1976

BY MINNETTE DODERER

SENATE FILE 85

S-5715

Amend the House amendment, S-5603, to Senate File 85, as amended, passed and reprinted, by the Senate as follows:

1. Page 11, by adding after line 45 the following:

"___. Page 28A, line 20, by inserting after the word "property" the words ", including a motor vehicle,".

S-5715 FILED & RULED OUT OF ORDER (1802)
MAY 7, 1976

BY RICHARD R. RAMSEY

S-5716

Amend the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate as follows:

1. Page 37 by striking lines 25 through 30 and inserting in lieu thereof the following:

"Sec. ____. New Section. Dangerous offender. A dangerous offender is:

1. A person convicted of a Class B felony who has previously been convicted of a felony involving the threat of death or serious injury.

2. A person who has been convicted of investing funds in commerce from a pattern of racketeering activity, or from loansharking as defined and prohibited in the Iowa Criminal Code and who has previously been convicted of a crime classified as a felony in the Court of this state, any other state or the United States."

2. Page 8, by inserting after line 1 the following:

"___ Page 18, by inserting after line 1 the following:

"Sec. _____. NEW SECTION. DEFINITIONS, As used in Section ___ through ___:

1. "Racketeering activity" means any act or threat involving an aggravated misdemeanor or a felony under the laws of this state.

2. "Pattern of racketeering activity" means at least two separate acts of racketeering activity, at least one of which occurred after the effective date of this Act, that have the same or similar purposes, results, participants, victims, or methods of commission, or that are otherwise interrelated by distinguishing characteristics and not isolated events.

3. "Unlawful debt" means a debt for a thing of value which is incurred or contracted in violation of chapters ninety-nine A (99A), ninety-nine B (99B), five hundred thirty-five (535), or five hundred thirty-seven (537) of the Code and which is incurred or contracted at an interest rate at least twice the lawful rate.

4. "Attorney General" means the attorney general or a designee, including a state agency.

5. "Enterprise" means a natural person, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

6. "Person" means any natural person or entity capable of holding a legal or beneficial interest in property. . . ."

7. "Commerce" is any kind of activity which can, in any manner, affect the buying, selling, or moving of goods and services in this state.

8. "Loansharking" is the collection of an "unlawful debt" as defined herein.

Sec. _____. NEW SECTION. PROHIBITED ACTIVITIES.

1. A person shall not directly or indirectly receive income from a pattern of racketeering activity or through loansharking in which this person has participated as a principal, to directly or indirectly use or invest this income or its proceeds in the acquisition of an enterprise which is engaged in or the activities of which affect commerce in this State. This subsection does not prohibit the purchase of securities on the open market for purposes of investment and without the intention of controlling or participating in the control of the issuer or of assisting another to do so if the securities of the issuer held by the purchaser, the members of the purchaser's family within the fifth degree of consanguinity or affinity, or the purchaser's accomplices in any pattern of racketeering activity or the collection of an unlawful debt after this purchase do not amount in the aggregate to one percent of the outstanding securities of any one class and do not confer the power, either in law or in fact, to elect one or more directors of the issuer.

2. A person shall not directly or indirectly acquire or maintain through a pattern of racketeering activity or through a collection of an unlawful debt any interest in or control of any enterprise which is engaged in or the activities of which affect commerce in this state.

3. A person employed by or associated with an enterprise engaged in or the activities of which affect commerce in this state shall not directly or indirectly conduct or participate in this enterprise's affairs through a pattern of racketeering activities or through a collection of an unlawful debt.

4. A person shall not conspire to violate the provisions of subsection one (1), two (2), or three

(3) of this section.

Sec. ____. NEW SECTION. CRIMINAL PENALTIES.

1. A person who violates the provisions of this enactment shall be, upon conviction, fined not to exceed twenty-five thousand dollars, imprisoned in the state penitentiary not to exceed twenty years, or both so fined and imprisoned.

2. In addition to the penalty prescribed under subsection one (1) of this section, a person who violates the provisions of this enactment shall, upon conviction, forfeit to the state:

a. Any interest acquired or maintained in violation of this enactment and

b. Any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which this person has established, operated, conducted, or participated in the conduct of in violation of this division.

3. In any prosecution brought under this section, a district court may enter restraining orders or injunctions and take other appropriate action such as requiring a satisfactory performance bond with regard to any property or interest subject to forfeiture.

4. Upon conviction of a person under this section, a district court shall authorize the attorney general to seize all property or interests declared forfeited under this section under designated terms and conditions. If a forfeited property right or other interest is not exercisable in favor of the state, it shall expire and not revert to the convicted person. The state shall dispose of forfeited property and interests as soon as commercially feasible, making due provision for the rights of innocent persons.

Sec. ____. NEW SECTION. CIVIL REMEDIES.

1. Upon petition of the attorney general, a district court may prevent or restrain violations under this enactment by issuing appropriate orders. These orders may include:

a. Ordering a person to divest of any direct or indirect interest in an enterprise.

b. Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise is engaged in if this endeavor affects commerce in this state.

c. Ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

2. Any action brought by the attorney general under this section shall proceed as soon as practicable to hearing and final determination. Prior to final determination, a district court may enter restraining orders or injunctions and take other appropriate action such as requiring a satisfactory performance bond.

3. In addition to any action brought by the attorney general under this section, a person injured by a violation of this enactment may recover up to threefold the damages sustained and court costs, including a reasonable attorney fee.

4. A criminal conviction under this division shall estop a civil defendant under this section from denying the essential elements of this defendant's criminal offense.

5. Any civil action or proceeding brought under this section shall be brought in the district court in whose jurisdiction the defendant resides, is found, has an agent, or transacts the defendant's affairs.

6. In any proceeding ancillary to or any civil action brought by the attorney general, the district court may close the proceedings after considering the rights of affected persons."" -

S-5716 FILED & RULED OUT OF ORDER (1806)
MAY 7, 1976

BY WILLIAM P. WINKELMAN

S-5717

Amend the House amendment, S-5603 to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 23, by striking lines 2 through 15, and inserting in lieu thereof the following:

"_____. Page 62, by inserting after line 5 the following:

"Sec. _____. NEW SECTION. Any person who knowingly sells or offers for sale material depicting sado-masochistic abuse, excretory functions, and bestiality which the average adult taking the material as a whole in applying contemporary community standards would find that it appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value where such material is sold or offered for sale with merchandise or services which is unrelated to such material shall, upon conviction be guilty of a simple misdemeanor.""

S-5717 FILED & ADOPTED (1801)

BY PHILIP B. HILL

SENATE AMENDMENT TO HOUSE AMENDMENT TO
SENATE FILE 85

H-6605

Amend the House amendment, S-3603, to Senate File 85, as amended, passed and reprinted by the Senate as follows:

1. Page 1, by striking lines 31 through 46.

2. Page 2, by inserting after line 5 the following

"___. Page 5, line 11, by inserting after the word "burglary" the words "in the first degree"".

3. Page 2, by striking lines 20 through 28.

4. Page 3, by striking lines 3 through 5 and inserting in lieu thereof the words "expressly or tacitly acquiesce in and was not one".

5. Page 4, by striking lines 8 through 10, and inserting in lieu thereof the following:

"___. Page 10, by striking lines 20 through 29 and inserting in lieu thereof the following: "force 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 or should have known is charged with the commission of a misdemeanor.""

6. Page 4, by striking lines 11 through 20.

7. Page 4, by inserting after line 20 the following:

"___. Page 10, by inserting after line 29 the following:

"Sec. ___. NEW SECTION. DEATH. "Death" means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician, 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 person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.

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 defined in paragraph one (1) of this section, ~~shall~~ not be criminally liable

for such cessation of medical attention.""

8. Page 4, by striking line 21.

9. Page 4, by striking lines 23 through 44.

10. Page 5, line 46, by inserting after the word "person" the word "intentionally".

11. Page 7, line 15, by striking the word and figures "59B, line 62" and inserting in lieu thereof the word and figures "15B, lines 62 and 63".

12. Page 7, by striking lines 29 through 36.

13. Page 7, by striking lines 37 through 44.

14. Page 8 by striking line 2.

15. Page 8, by striking lines 10 through 38.

16. Page 8, line 12, by striking the word "When" and inserting in lieu thereof the word "If".

17. Page 8, by striking lines 39 through 45.

18. Page 8, by striking line 46 through page 9, line 27.

19. Page 9, by striking lines 28 through 36.

20. Page 9, by striking lines 37 through 41.

21. Page 9, by striking lines 42 through 43.

22. Page 9, by inserting after line 43 the following:

"___. Page 20A, by inserting after line 8 the following:

"Sec. ___. NEW SECTION. RESISTANCE TO SEXUAL ABUSE. Under the provisions of this division it shall not be necessary to establish physical resistance by a participant in order to establish that an act of sexual abuse was committed by force and against the will of the participant.""

23. Page 10, line 19, by striking the words ""such person or another"" and inserting in lieu thereof the words ""either party"".

24. Page 10, by striking lines 23 through 25.

25. Page 10, line 28, by striking the word ""state"" and inserting in lieu thereof the words ""state department of health"".

26. Page 10, by striking lines 29 through 32.

27. Page 10, by striking lines 36 through 38.

28. Page 10, by striking lines 41 through 43.

29. Page 10, by striking lines 44 through 46.

30. Page 10, by striking lines 47 through 50.

31. Page 11, by striking line 26.

32. Page 11, by striking lines 40 through 42.

33. Page 11, by striking lines 46 through 49.

34. Page 13, by striking lines 1 through 25.

35. Page 13, by striking line 50A.

36. Page 14, by striking lines 3 through 17.

37. Page 14, by striking lines 27 through 39.

38. Page 15, by striking lines 34 through 37.

39. Page 15, by striking lines 43 and 44.
40. Page 15, by striking lines 45 and 46.
41. Page 16, by striking lines 10 and 11.
42. Page 16, by striking lines 47 and 48 and inserting in lieu thereof the following: "of any crime defined in Division VIII of this Act, except "assault" as defined in section eight hundred one (801) of this Act and "harassment" as defined in section eight hundred eight (808) of this Act."
43. Page 17, by striking lines 7 and 8.
44. Page 17, by striking lines 12 through 17.
45. Page 17, by striking lines 29 through 46.
46. Page 18, line 31, by inserting after the word "pardoned" the words "or has had his or her civil rights restored".
47. Page 18, by striking line 37, through page 21, line 4.
48. Page 21, line 37, by striking the word "similiar" and inserting in lieu thereof the word "similar".
49. Page 21, by striking lines 42 through 50.
50. Page 22, by striking lines 35 through 38 and inserting in lieu thereof the following: "WITHOUT A LICENSE. 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.""
51. Page 23, by striking lines 2 through 15, and inserting in lieu thereof the following:
"___. Page 62, by inserting after line 5 the following:
"Sec. ___. NEW SECTION. Any person who knowingly sells or offers for sale material depicting sado-masochistic abuse, excretory functions, and bestiality which the average adult taking the material as a whole in applying contemporary community standards would find that it appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value where such material is sold or offered for sale with merchandise or services which is unrelated to such material shall, upon conviction be guilty of a simple misdemeanor.""
52. Page 24, by striking lines 33 through 35.
53. Page 24, by striking line 46.
54. Page 26, by striking line 46.
55. Page 28, by striking line 34.
56. Page 28, by striking lines 35 through 39.
57. Page 28, by striking lines 40 and 41.
58. Page 30, by striking lines 28 and 29.

59. Page 31, by striking lines 3 and 4.

60. Page 32, by striking lines 1 and 2 and inserting in lieu thereof the following:

"___. Page 130B, line 37, by striking the word "either" and inserting in lieu thereof the word "any".

___. Page 130B, by striking lines 42 through 57 and inserting in lieu thereof the following:

"b. The information sought by way of deposition cannot adequately be disclosed by a bill of particulars and is necessary in order that the defendant receive a fair trial.

c. Other circumstances necessitating discovery by deposition, provided that:

1. The prospective witness to be deposed has not previously been examined at a preliminary hearing by the party requesting the deposition; and,

2. Prior to the taking of any deposition, a list of all witnesses expected to be called by the moving party at trial is furnished to the nonmoving party. Those witnesses shall be subject to pretrial discovery by the nonmoving party. Notwithstanding the provisions of this subparagraph, if the moving party is the defendant, the moving party need not disclose whether or not the defendant intends to testify at trial.""

61. Page 32, by striking line 3 through page 33, line 2.

62. Page 33, by striking lines 9 and 10.

63. Page 33, by striking line 34 through page 34, line 7.

64. Page 34, by striking lines 9 through 16.

65. Page 35, by striking lines 11 through 13.

66. Page 35, by striking lines 14 through 20.

67. Page 35, by striking lines 21 through 25.

68. Page 36, by striking lines 45 through 47.

69. Page 36, by striking line 49 through page 37, line 5.

70. Page 37, by striking line 6.

71. Page 37, by striking lines 11 through 18.

72. Page 37, by striking lines 31 through 40.

73. Page 37, by striking line 48 through page 38, line 6.

74. Page 38, by striking lines 27 and 28.

75. Page 38, by striking lines 29 through 34.

76. Page 40, by striking lines 3 through 9.

77. Page 40, by striking lines 11 through 34.

78. Page 40, by striking line 35.

79. Page 41, by striking line 28 through page 42, line 9.

80. Page 42, by striking lines 16 through 18.
81. Page 42, by striking lines 26 through 28.
82. Page 43, by striking lines 14 and 15.
83. Page 46, by striking line 1 through page 47, line 43.
84. Page 47, by striking line 45 through page 48, line 4.
85. Page 48, by striking line 5 through page 49, line 7.
86. Page 49 ,by striking from line 36 through page 51, line 27, and inserting in lieu thereof the following:
"___. Page 337, line 11, by inserting after the word "while" the words "having ten or more hundredths of one per centum by weight of alcohol in the blood or while".
__. Page 337, line 15, by inserting after the word "offense" the words "and shall be imprisoned in the county jail not less than two days".
__. Page 337, line 19, by inserting after the word "offense" the words "and shall be imprisoned in the county jail not less than two days"."
87. Page 51, by inserting after line 27 the following:
"__. Page 337, by inserting after line 28 the following:
"Sec. __. Section three hundred twenty-one point two hundred eighty-one (321.281), unnumbered paragraphs five (5) and six (6), Code 1975, are amended to read as follows:
This section shall not apply to a person operating a motor vehicle while under the influence of a narcotic, hypnotic or other drug if such substances were prescribed for such person and have been taken under such prescription and in accordance with the directions of a ~~reputable doctor of medicine~~ medical practioner as defined in section one hundred fifty-five point three (155.3), subsection eleven (11), of the Code, provided however there is no evidence of the consumption of alcohol and further provided said ~~doctor of medicine~~ medical practioner has not directed such person to refrain from operating a motor vehicle.
~~For the purposes of this section, evidence that there was, at the time, more than ten hundredths of one per centum by weight of alcohol in his blood shall be admitted as presumptive evidence that the defendant was under the influence of an alcoholic beverage.~~
No previous conviction for, or plea of guilty to, an offense under this section occurring more than

six years prior to the date of the violation being charged shall be used to determine that the violation being charged is a second, third or subsequent offense.""

88. Page 51, lines 44 through 47 by striking the words ", notwithstanding the provisions of section three hundred twenty-one point two hundred twelve (321.212) of the Code,".

89. Page 51, line 49, by striking the word "twenty" and inserting in lieu thereof the words "~~twenty~~ eighty".

90. Page 51, by striking line 50 through page 52, line 11 and inserting in lieu thereof the words "year; or if the person is a".

91. Page 52, line 38, by striking the word "anual" and inserting in lieu thereof the word "annual".

92. Page 54, by inserting after line 46 the following:

"___. Page 381, by striking lines 10 through 17."

93. Page 56A by striking lines 26 through 28, and page 57 by striking lines 1 through 36, and inserting in lieu thereof the following:

"508. Page 78, by striking lines 33 through 35 and inserting in lieu thereof the following:

"Sec. 505. NEW SECTION. FAILURE TO APPEAR.

1. 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 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 citation attached to the law enforcement agency which issued the original citation for enforcement of the warrant. Upon arrest of the defendant, the warrant and the original citation shall be returned to the court, and the offenses shall be heard and disposed of simultaneously. This subsection shall not apply in any case in which the citation alleges a simple misdemeanor and in which the person cited has submitted bond as provided in subsection two (2) of this section.

2. In the case of a citation which alleges the commission of a simple misdemeanor and in which the person cited has submitted an appearance bond in the form of cash, check, or guaranteed arrest bond certificate as defined in section three hundred twenty-one point one (321.1) of the Code, the court shall not issue an arrest warrant for failure to appear,

but shall order a forfeiture of the bond as provided in subsection four (4) of section one thousand one hundred seven (1107) of chapter two (2) of this Act.""

94. Page 57, by inserting after line 36 the following:

"509. Page 97, by inserting after line 21 the following new subsection:

"4. The provisions of subsections one (1), two (2) and three (3) of this section shall not apply to a case in which a simple misdemeanor is charged by police citation pursuant to section five hundred five (505) of chapter two (2) of this Act or by uniform citation and complaint pursuant to section seven hundred fifty-three point fifteen (753.15) of the Code, and in which the defendant has submitted appearance bond in the form of cash, check, or guaranteed arrest bond certificate as defined in section three hundred twenty-one point one (321.1) of the Code. Where a defendant fails to appear as required in such a case, the court shall enter a judgment of forfeiture of the bond which shall be final upon entry and shall not be set aside.""

95. Page 58, line 5, by striking the word "quadruplicate" and inserting in lieu thereof the words "~~quadruplicate~~ quintuplicate".

96. Page 58, line 7, by striking the words "a copy to" and inserting in lieu thereof the words "a ~~copy~~ two copies to".

97. Page 58, lines 14 and 15, by striking the words "and seven hundred fifty-three point six (753.6) of the Code" and inserting in lieu thereof the words "of the Code and five hundred two (502) of chapter two (2) of this Act".

98. Page 58, lines 17 and 18, by striking the words "and seven hundred fifty-three point seven (753.7) of the Code" and inserting in lieu thereof the words "and five hundred three (503) of chapter two (2) of this Act".

99. Page 58, line 29, by striking the word and figure "section 755.4" and inserting in lieu thereof the words and figures "section ~~755.4~~ four hundred seven (407) of chapter two (2) of this Act".

100. Page 58, line 45, by striking the words and figures "July 1, ~~1974~~ 1976" and inserting in lieu thereof the words and figures "~~July~~ January 1, ~~1974~~ 1978".

101. Page 59, line 15, by striking the word "~~TRAFFIC~~" and inserting in lieu thereof the words "TRAFFIC AND".

102. Page 59, line 18, by striking the word

"~~traffic~~" and inserting in lieu thereof the words "traffic and".

103. Page 59, by striking lines 29 through 33 and inserting in lieu thereof the words "~~nonmoving scheduled violations~~ applicable to commercial carriers. The collection".

104. Page 61, lines 33, 34 and 35, by striking the words "three hundred twenty-one point four hundred fifteen (321.415),".

105. Page 62, by striking lines 19, 20 and 21, and inserting in lieu thereof the words "is thirty dollars."

106. Page 62, by inserting after line 23 the following new paragraph:

"Excessive speed in whatever amount by a school bus is not a scheduled violation under any section listed in a subparagraph of this paragraph F."

107. Page 66, line 18, by striking the word "ten" and inserting in lieu thereof the word "five".

108. Page 66, lines 30 and 31, by striking the words "one hundred six point fifteen (106.15), subsection two (2),".

109. Page 67, line 12, by striking the word "ten" and inserting in lieu thereof the word "five".

110. Page 67, lines 48 and 49, by striking the words "one hundred eleven point forty-four (111.44),".

111. Page 67, line 50, through page 68, line 1, by striking the words ", one hundred eleven point forty-eight (111.48)".

112. Page 70, line 28, by striking the words "~~traffic~~ scheduled" and inserting in lieu thereof the words "traffic violations, whether or not scheduled, and for all other scheduled".

113. Page 70, line 34, by striking the words "~~Traffic~~ scheduled" and inserting in lieu thereof the words "Traffic violations, whether or not scheduled, and all other scheduled".

114. Page 70, line 39, by striking the words "~~traffic~~ scheduled" and inserting in lieu thereof the words "traffic violations, whether or not scheduled, and any other scheduled".

115. Page 70, line 45, by striking the words "~~traffic~~ scheduled" and inserting in lieu thereof the words "traffic and scheduled".

116. Page 70, by striking lines 47 through 50, and page 71 by striking lines 1 through 9.

117. Page 71, by striking lines 10 through 13.

118. Page 71, by striking lines 28 through 32.

119. Page 72, lines 26 and 27, by striking the words "to persons eighteen years of age or older".

120. Page 72, lines 29 and 30, by striking the words "eighteen years of age and older".

121. Renumbering the sections and paragraphs to conform with this amendment.

H-6605 FILED
RECEIVED FROM SENATE
MAY 11, 1976

House refused to concur 5/11 (p. 2615)
Senate insisted 5/12 (p. 1908)

REPORT OF THE CONFERENCE COMMITTEE
ON SENATE FILE 85

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the first conference committee appointed to consider the differences between the Senate and the House of Representatives on Senate File 85, a bill for an Act relating to a complete revision of the substantive criminal laws, criminal procedure laws, and sentencing and post-conviction procedure laws of this state; providing rules of criminal procedure; providing classifications of public offenses and their consequent penalties and providing penalties for violations of the laws of the state to accord with the revised classifications, respectfully make the following report:

1. That the Senate and House conferees have failed to reach an agreement.

ON THE PART OF THE SENATE:

Gene W. Glenn, Chair
E. Kevin Kelly
Richard R. Ramsey
Norman G. Rodgers
Earl M. Willits

ON THE PART OF THE HOUSE:

Norman G. Jesse, Chair
Terry E. Branstad
Julia B. Gentleman
Carl V. Nielsen
Brice C. Oakley

FILED
MAY 14, 1976

Second Conference Committee Appointed 5/14
Same members.

EXPLANATION OF REPORT OF THE 2ND CONFERE COMMITTEE ON SENATE FILE 85 Mary Rice eds

SECTION	EXPLANATION
1,11	Provides that medical personnel are justified in terminating medical attention to a person who is dead, as defined in division II of chapter 1.
2	Deletes burglary in the second degree from definition of forcible felony.
3	Strikes the expanded definition of sex act (inclusion of fingers and tongue).
4, 5, 6	Provides that accomplice is not responsible for the act of another if he or she could not reasonably expect that act to be done in furtherance of the commission of the offense.
7, 8, 9, 10	Provides that deadly force may not be used to prevent escape of alleged or convicted misdemeanant.
12	Provides regulation of police undercover activity.
13	Strikes termination of life support systems.
14	Requires that intent be an element of first degree murder in cases where a prisoner kills a guard, etc.
15, 16	Feticide provision applies when fetus aborted alive after 20th week.
17	Returns to original S. F. 85 definition of "aggravated assault".
18	Removes assault on peace officer from "aggravated assault" category.
19	Strikes "following" and "taunting" as elements of crime of harassment.
20, 21, 22, 23, 24, 26, 27, 28, 29	Sexual abuse in the 3rd degree, chargeable only against persons not cohabiting as husband and wife, in four types of circumstances. (See sections 27-29)
25	Sexual abuse of a child under 12 is a class B felony.
30, 31	Sexual abuse in the third degree includes sexual abuse of child (under 14 yrs.) or by a person who has a person under 16 yrs. under his or her control.
32, 33, 34	Eliminates "sexual abuse in the fourth degree" category of offense.
35	Physical resistance need not be proven to sustain conviction of sexual abuse, but may be admissible to prove element of "force or against the will".
36	Word change: "either of them" to "either party"; no substantive difference.
37	State Department of Health to pay for examination of rape victims.

EXPLANATION OF REPORT OF THE 2ND CONFERE COMMITTEE ON SENATE FILE 85

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35	Physical resistance need not be proven to sustain conviction of sexual abuse, but may be admissible to prove element of "force or against the will".
36	Word change: "either of them" to "either party"; no substantive difference.
37	State Department of Health to pay for examination of rape victims.

EXPLANATION OF REPORT OF THE 2ND CONFERE COMMITTEE ON SENATE FILE 85

SECTION	EXPLANATION
38	Returns to original Senate File 85 elements of crime of kidnapping,(removes "confinement without authority or consent" element.)
39, 40	Sexual abuse in 4th degree eliminated (see sections 30, 31, 32); this item no longer relevant.
41	Child stealing is a class C felony.
42	Refusal to include "holding a child outside the state" as an element of crime of child stealing.
43	Retains "reasonable belief" as defense to false imprisonment.
44	Strikes crime of recklessly risking catastrophe.
45	Permits rebuttable inference with relation to fraud in obtaining goods or services.
46	Permits inference that bad check not paid within 10 days of notice evidences intent to defraud.
47	Theft of a motor vehicle is theft in the second degree.
48	Strikes "fraud upon innkeepers"; see section 45, above.
49	Removes "injuries to dogs and cats" section.
50	Deletes crime of leaving state to obstruct prosecution.
51, 52, 53	Classifications for crimes of assisting and permitting prisoner to escape: Class A felon = class C felony; any other offender = class D felony.
54	Strikes "tumultuous and threatening" from riot, unlawful assembly, and disorderly conduct offenses.
55, 56, 57, 58	Strikes"exposing dangerous substances" from crime of disorderly conduct; changes "epithets" section to "directs abusive epithets" or making "threatening gestures".
59	Language requiring that operation of motor vehicle be an element of the crime of transporting a dangerous weapon in a motor vehicle.
60	Permit to carry weapon not issued to person convicted of assault, except simple assault and harassment.

EXPLANATION OF REPORT OF THE 2ND CONFERE COMMITTEE ON SENATE FILE 85

SECTION	EXPLANATION
61, 62	All transfers of ownership of handguns to be reported, except those between close family members.
63, 64	Three day waiting period to buy handgun.
65, 66	Allows convicted felon who has had civil rights restored to own firearm; sets penalty for felon who violates prohibition on owning firearm.
67	Strikes licensing of massage parlors.
68, 72, 73	Regulation of public indecent exposure.
69	Crime of incest does not apply to in-laws.
70, 71	Clarifies crime of conducting business without a license.
74, 75	Regulates sale, etc. of obscenity.
76, 77, 84, 85, 86	Arrest, release of material witness.
78, 79, 80	Peace officer may use deadly force when he or she knows that person has committed a felony.
81	Strikes "no-knock" provisions.
82	Strikes administrative search provisions.
83	Strikes nontestimonial identification procedures prior to arrest.
87	No amendment of bill of particulars.
88, 89	After charge is filed, state shall reveal persons subpoenaed unless court orders confidentiality.
90, 91, 92, 93, 94, 95, 96, 97	Sets out criminal procedure rule 12: Depositions. Authorizes Supreme Court to propose further procedural changes.
98	Strikes payment of witness fees for indigents.
99	"Use" or "transactional" immunity.
100	No exemption for police and police employees from corroboration of testimony requirement.

EXPLANATION OF REPORT OF THE 2ND CONFERE COMMITTEE ON SENATE FILE 85

SECTION	EXPLANATION
101, 102, 103, 104, 105, 106, 107	Dismissal of pending prosecution is not a bar to another prosecution in cases of felony or aggravated misdemeanor. Indictment must be found within 45 days after arrest or prosecution will be dismissed. Trial must be within 90 days of indictment or dismissal will occur.
108	Changes permissible period of incarceration in county jail from ninety days to one year.
109, 110, 111, 112	Retains governor's power to commute sentence of class A felon. Retains review of class A felons within 5 years of beginning of sentence.
113	Indeterminant sentencing without mandatory minimum is permitted.
114, 115, 116, 117, 118	"Dangerous offender" provisions eliminated; "Incorrigible offenders" redesignated "Habitual offenders;" Habitual offenders must serve 3 year mandatory minimum sentence.
119	Sets penalties for other than class A felons.
120	Eliminated certain mandatory minimums.
121	Does not strike reference to work release from county jails.
122, 142, 143	Payments to paroled and discharged inmates.
123	Strikes notification to police of parolee's terms and conditions of parole.
124, 125	Magistrates, in lieu of liaison officers, preside over parole revocation hearings.
126	Repeal of prohibition against cigarette ads within 400 feet of a school.
127, 128, 129	Mandatory minimum confinement of one-third the maximum indeterminant sentence prescribed by law for certain drug offenders.
130, 131, 132	Marijuana. Adjusts "accommodation offense" to recent Supreme Court decision - immediate effective date.
133	Corrective amendment to forfeiture of conveyances amendment.
134, 135, 136, 137, 138, 139	OMVUI. Per se provisions removed. 2-day mandatory prison sentence for first conviction; 7-day mandatory prison sentence for second conviction.
140	Amendments to scheduled violations.

EXPLANATION OF REPORT OF THE 2ND CONFEREI OMMITTEE ON SENATE FILE 85

SECTION	EXPLANATION
141	Political contributions by corporations - retained in Senate File 85 penalty structure.
144, 145, 146	Repeal of motorcycle helmet law for all ages.
147	Instructions to the Code Editor to include, insofar as possible, the chapters, divisions, and sections of this Act as the chapters, divisions, and sections of the Code. It also limits his making editorial modifications of the Act.
148	Clarification of de-sexing amendment. The secretary of the Senate shall disregard portions of the de-sexing amendment when preparing Senate File 85 for enrollment when such portions conflict with substantive amendments that passed the Senate or House.

SUPPLEMENTAL REPORT OF THE SECOND CONFERENCE COMMITTEE
ON SENATE FILE 85

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the second conference committee appointed to consider the differences between the Senate and the House of Representatives on Senate File 85, a bill for an Act relating to a complete revision of the substantive criminal laws, criminal procedure laws, and sentencing and post-conviction procedure laws of this state; providing rules of criminal procedure; providing classifications of public offenses and their consequent penalties; and providing penalties for violations of laws of the state to accord with the revised classifications, respectfully make the following supplemental report:

1. That the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate be amended on page 37, line 44, by striking the figure "16" and inserting in lieu thereof the figure "14".

ON THE PART OF THE SENATE:	ON THE PART OF THE HOUSE:
GENE W. GLENN, Chairperson	NORMAN G. JESSE, Chairperson
E. KEVIN KELLY	TERRY E. BRANSTAD
RICHARD R. RAMSEY	JULIA GENTLEMAN
NORMAN RODGERS	CARL V. NIELSEN
EARL M. WILLITS	BRICE C. OAKLEY

Senate adopted 5/28 (2441)
House " 5/28 (3303)

FILED
MAY 28, 1976

Final Draft

REPORT OF THE SECOND CONFERENCE COMMITTEE
ON SENATE FILE 85

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the second conference committee appointed to consider the differences between the Senate and the House of Representatives on Senate File 85, a bill for an Act relating to a complete revision of the substantive criminal laws, criminal procedure laws, and sentencing and post-conviction procedure laws of this state; providing rules of criminal procedure; providing classifications of public offenses and their consequent penalties; and providing penalties for violations of laws of the state to accord with the revised classifications, respectfully make the following report:

1. That the Senate recede from items 1 and 7 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

2. That the House concur in item 2 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

3. That the House concur in item 3 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

4. That the Senate recede from item 4 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

5. That the House recede from item 26 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

6. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 7, lines 16 through 18 by striking the words "did not expressly or tacitly acquiesce in and was not one which he could" and inserting in lieu thereof the words "could not".

7. That the Senate recede from items 5 and 6 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

8. That the House recede from items 41 and 42 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

9. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 10, lines 20 and 21, by striking the words "he reasonably believes to be" and inserting in lieu thereof the word "is".

10. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 10, line 29, by inserting after the word "knows" the words "or should know".

11. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 10, by inserting after line 29 the following section:

"Sec. ___. NEW SECTION. 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 division two (II) of this chapter, shall not be criminally liable for such cessation of medical attention."

12. That the House concur in item 8 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

13. That the House concur in item 9 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

14. That the House concur in item 10 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

15. That the Senate recede from item 11 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

16. That the House recede from items 79 and 80 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

17. That the House concur in item 12 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

18. That the House concur in item 13 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

19. That the Senate recede from item 14 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

20. That the House concur in items 15 and 18 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

21. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended on page 19A, line 3, by inserting after the word "force" the word "or".

22. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended on page 19A, line 6, by striking the words "person so consenting" and inserting in lieu thereof the word "other."

23. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended on page 19A, by striking lines 7, 8, and 9.

24. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended on page 19A, by striking line 11 and inserting in lieu thereof the following: "defect or incapacity which precludes giving consent, or lacks the".

25. That the House concur in item 17 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

26. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended on page 19A, line 30, by striking the word "and" and inserting in lieu thereof the the word "or".

27. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended on page 19A, by striking lines 34 and 35 and inserting in lieu thereof the following:

"Any sex act between persons who are not at the time cohabiting as husband and wife is sexual abuse in the third degree by either of the participants when the act is performed with the other participant in any of the following".

28. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended on page 19B, line 37, by striking the word "and" and inserting in lieu thereof the word "or".

29. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended on page 19B, by striking lines 39 and 40 and inserting in lieu thereof the following:

"2. The other participant is suffering from a mental defect or incapacity which precludes giving consent, or lacks".

30. That the House concur in item 19 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

31. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 20A, by inserting after line 2 the following new subsection:

"4. The other person is fourteen years of age but less than sixteen years of age and the defendant is a member of the same household as the victim, the defendant is related to the victim by blood or affinity to the fourth degree, or the defendant is in a position of authority over the victim and used this authority to coerce the victim to submit."

32. That the Senate recede from items 20 and 21 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

33. That the House recede from items 102 and 103 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

34. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 20A, by striking lines 4 through 7.

35. That item 22 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate, is amended by striking the item and inserting in lieu thereof the following:

"22. Page 9, by inserting after line 43 the following:

"___. Page 20A, by inserting after line 8 the following:

"Sec. ___. NEW SECTION. RESISTANCE TO SEXUAL ABUSE. Under the provisions of this division it shall not be necessary to establish physical resistance by a participant in order to establish that an act of sexual abuse was committed by force or against the will of the participant. 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."""

36. That the House concur in items 23 and 24 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

37. That the House concur in item 25 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

38. That the House concur in item 26 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

39. That the Senate recede from item 27 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

40. That the House recede from items 116 and 117 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

41. That the House concur in item 28 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

42. That the House concur in item 29 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

43. That the House concur in item 30 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

44. That the Senate recede from item 31 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

45. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 27A, line 18, by inserting after the word "deception." the words "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."

46. That the House concur in item 32 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

47. That the House concur in item 33 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

48. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 31A, by striking line 28 through page 31B, line 46.

49. That the House concur in item 34 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

50. That the Senate recede from item 35 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

51. That the Senate recede from items 36 and 37 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

52. That the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 14, by striking lines 10 through 17 and inserting in lieu thereof the following:

"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."

53. That the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 14, by striking lines 34 through 39 and inserting in lieu thereof the following:

"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."

54. That the Senate recede from items 38 and 39 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

55. That the Senate recede from item 40 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

56. That the House recede from item 180 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

57. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 47, line 11, by striking the words "or personal insults".

58. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended, page 47, line 12, by striking the words "or obscene".

59. That the House concur in item 41 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

60. That the House concur in item 42 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

61. That the Senate recede from items 43 and 44 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

62. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 53, line 14, by inserting after the word "misdemeanor." the words: "Any person who transfers the ownership of a revolver or pistol to a person related to him or her within the second degree of consanguinity or affinity shall be exempt from the reporting requirements of this section."

63. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 54, by inserting after line 16 the following sections:

"Sec. ___. NEW SECTION. PERMIT TO PURCHASE REQUIRED. Any person who purchases a pistol or revolver without a valid permit to purchase pistols or revolvers or any person who sells a pistol or revolver to a person who does not have in his or her possession a valid permit to purchase pistols or revolvers is guilty of a simple misdemeanor.

Sec. ___. NEW SECTION. APPLICATION. The application for a permit to purchase pistols or revolvers may be made to the sheriff of any county and shall be on a form prescribed and published by the commissioner of public safety. The application shall state the full name of the applicant, the social security number of the applicant, the residence of the applicant, and the age of the applicant.

Sec. ___. NEW SECTION. ISSUANCE. The permit to purchase pistols or revolvers shall be issued to the applicant immediately upon completion of the application and shall be on a form prescribed and published by the commissioner of public safety. The permit shall contain the name of the permittee, the social security number of the permittee, the residence of the permittee, and the effective date of the permit.

Sec. ___. NEW SECTION. VALIDITY. The permit shall be valid throughout the state and shall be valid three days after the date of application and shall be invalid one year after the date of application.

Sec. ___. NEW SECTION. MAILING OF APPLICATIONS. A person may by mail or personally request the sheriff to mail an application for a permit to purchase pistols or revolvers and the sheriff shall immediately forward to such person an application for a permit to purchase pistols or revolvers. A person may upon completion of the application mail such application to the sheriff who shall note the period of validity on the application and shall immediately forward the permit to purchase 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."

64. That the House concur in item 45 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

65. That the House concur in item 46 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

66. That the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 18, by striking lines 22 through 27 and inserting in lieu thereof the words "firearm or offensive weapon is guilty of an aggravated misdemeanor."

67. That the House concur in items 47 and 83 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

68. That the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 21, by striking lines 10 through 41 and inserting in lieu thereof the following section:

"Sec. ___. NEW SECTION. PUBLIC INDECENT EXPOSURE. A holder of a liquor license or beer permit or any owner, manager, or person who exercises direct control over any licensed premises defined in section one hundred twenty-three point three (123.3), subsection thirty-one (31) of the Code shall be guilty of a serious misdemeanor under any of the following circumstances:

1. If such person allow or permit the actual or simulated public performance of any sex act upon or in such licensed premises.

2. If such person allow or permit the exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

3. If such person allow or permit the exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

4. If such person allow or permit any person to remain in or upon the licensed premises who exposes to public view his or her genitals, pubic hair, or anus.

5. If such person allow or permit the displaying of moving pictures, films, or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

Provided that 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 any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances."

69. That the House concur in item 49 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by by the Senate.

70. That the Senate recede from item 50 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

71. That item 221 of the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate, is amended on page 22 by striking lines 35 through 38 and inserting in lieu thereof the following:

"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."

72. That the Senate recede from item 51 of its amendment, H-6605, to the House amendment,S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

73. That the House recede from item 227 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

74. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 62, by inserting after line 5 the following section:

"Sec. ___. NEW SECTION. Any person who knowingly sells or offers for sale material depicting a sex act involving sado-masochistic abuse, excretory functions, a child, or bestiality which the average adult taking the material as a whole in applying contemporary community standards would find that it appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be guilty of a simple misdemeanor. Charges under this section may only be brought by a county attorney, the attorney general, or a grand jury."

75. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 63, line 35, by inserting after the word "Act." the words "Nothing in this

section shall restrict the zoning authority of cities and counties."

76. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 71, by inserting after line 30 the following:

"At the time of the arrest, the law enforcement officer shall inform the person of:

1. His or her identity as a law enforcement officer; and

2. 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."

77. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 71, by inserting after line 30 the following section:

"Sec. ___. INITIAL APPEARANCE BEFORE MAGISTRATE--ARREST OF MATERIAL WITNESS. The officer shall, without unnecessary delay, take the person arrested before the nearest and most accessible magistrate to the place where the arrest occurred.

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 unavailable for service of a subpoena. The magistrate may order the person released pursuant to sections one thousand one hundred two (1102) and one thousand one hundred three (1103) of this Act."

78. That the Senate recede from item 52 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

79. That the House recede from items 247 and 248 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

80. That Senate File 85, as amended, passed, and reprinted by the Senate, is further amended, page 72, by striking lines

12 through 18 and inserting in lieu thereof the words "has committed a felony."

81. That the Senate recede from item 53 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

82. That the Senate recede from items 54 and 55 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

83. That the Senate recede from item 56 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

84. That the Senate recede from item 57 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

85. That the House recede from item 246 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

86. That the Senate concur in item 286 of the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

87. That the Senate recede from item 58 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

88. That the Senate recede from item 59 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

89. That the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate, is amended by striking item 307 and inserting in lieu thereof the following:

"307. Page 117, by striking line 4, and inserting in lieu thereof the words "event disclosure shall be made, unless the court in an in camera hearing orders that it be kept confidential."

90. That the Senate recede from items 60 and 61 of its

90. That the Senate recede from items 60 and 61 of its amendment, H-6605, to the House amendment,S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

91. That the House recede from items 322, 323, and 324 f its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

92. That Senate File 85, as amended, passed, and reprinted by the Senate, be further amended, page 130A, by striking lines 16 through 35.

93. That Senate File 85, as amended, passed, and reprinted by the Senate, be further amended by striking pages 130B through page 133, line 2, and inserting in lieu thereof the following:

"Rule 12. DEPOSITIONS.

1. By defendant. A defendant in a criminal case, either after preliminary information, indictment, or information, may examine all witnesses listed by the state on the indictment or information or notice of additional witnesses, conditionally or on notice or commission, in the same manner and with like effect as in civil actions.

When the state receives notice that a deposition will be taken of a witness listed on the indictment, information or notice of additional witnesses, the state may object that the witness is (a) a foundation witness or (b) has been adequately examined on preliminary hearing. The court shall immediately determine whether discovery of said witness or witnesses is necessary in the interest of justice and shall allow or disallow said deposition.

2. Special circumstances. Whenever due to special circumstances of the case it is in the interest of justice that the testimony of a prospective witness not included in subsections one (1) or three (3) of this rule be taken and preserved for use at trial, the court may upon motion of a party and notice to the parties order that testimony of such witness be taken by deposition and that any designated book, paper,

document, record, recording, or other material not privileged, be produced at the same time and place.

For purposes of this subsection, special circumstances shall be deemed to exist, and the court shall order that depositions be taken, only upon the showing of necessity arising from either the following circumstances:

a. The information sought by way of deposition cannot adequately be disclosed by a bill of particulars, or by voluntary statements.

b. Other just cause necessitating discovery by deposition.

3. By state. At the taking of a deposition by a defendant under subsection one (1) or two (2) of this rule, the defendant shall list all witnesses expected to be called for the defense. There shall be a continuing duty throughout trial to disclose additional defense witnesses, and such witnesses shall be subject to being deposed by the state.

4. Perpetuating testimony. A person apprehensive of a criminal prosecution may perpetuate testimony in his or her favor in the same manner and with like effect, as may be done in apprehension of any civil action."

94. That Senate File 85, as amended, passed, and reprinted by the Senate, be further amended, page 144, line 34, by striking the word "four" and inserting in lieu thereof the word "seven".

95. That Senate File 85, as amended, passed, and reprinted by the Senate, be further amended, page 145, line 2, by striking the word "four" and inserting in lieu thereof the word "seven".

96. That Senate File 85, as amended, passed, and reprinted by the Senate, be further amended, page 145, line 13, by striking the word "four" and inserting in lieu thereof the word "seven".

97. That Senate File 85, as amended, passed, and reprinted by the Senate, be further amended, page 189, by inserting after line 23 the following section:

"Sec. ___. The supreme court is authorized to propose

changes in the rules of criminal procedure for consideration by the First Session of the Sixty-seventh Session of the General Assembly. This section shall be effective July 1, 1976. Any rules promulgated under the authority of this section shall become effective January 1, 1978."

98. That the Senate recede from item 62 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

99. That the House concur in item 63 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

100. That the House concur in item 64 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

101. That the Senate recede from items 65 through 67 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

102. That the House recede from items 357 through 359 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

103. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 166A, line 15, by inserting after the words "is a" the words "simple or serious".

104. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 166A, line 16, by inserting after the word "felony" the words "or an aggravated misdemeanor".

105. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 166A, by inserting after line 19 the words "Applications for dismissals under this subsection may be made by the county attorney or the defendant or by the court on its own motion."

106. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 166A by striking

lines 20 through 30 and inserting in lieu thereof the following:

"1. When a person is arrested for the commission of a public offense and an indictment is not found against him within forty-five days, the court must order the prosecution to be dismissed, unless good cause to the contrary is shown or the defendant waives his right thereto."

107. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 166A, by striking lines 31 through 35 and inserting in lieu thereof the following:

"2. If a defendant indicted for a public offense has not waived his right to a speedy trial he must be brought to trial within ninety days after indictment is found or the court".

108. That the Senate recede from items 68 and 75 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

109. That the House concur in item 69 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

110. That the Senate recede from item 70 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

111. That the House recede from item 385 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

112. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 216A, by striking lines 13 through 15 and inserting in lieu thereof the following:

"Sec. ___. NEW SECTION. RECORD REVIEWED. The board shall interview a class A felon within five years of his or her confinement and regularly thereafter."

113. That the House concur in item 71 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

114. That the Senate recede from item 72 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

115. That the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 37, by striking lines 22 through 30.

116. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 217A, by striking line 35 through page 218, line 2.

117. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 218, lines 3 and 4, by striking the words "INCORRIGIBLE OFFENDERS. An incorrigible" and inserting in lieu thereof the words "HABITUAL OFFENDERS. An habitual".

118. That the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 37, by striking lines 31 through 40 and inserting in lieu thereof the following:

"___. Page 218, line 9, by inserting after the word "conviction." the words "A person sentenced as an habitual offender shall not be eligible for parole until he or she has served the minimum sentence of confinement of three years."

119. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 218, by striking lines 15 through 26 and inserting in lieu thereof the following:

"1. An habitual offender shall be confined for no more than fifteen years.

2. A class C felon, not an habitual offender, shall be confined for no more than ten years, and in addition, may be sentenced to a fine of not more than five thousand dollars.

3. A class D felon, not an habitual offender, shall be confined for no more than five years, and in addition, may be sentenced to a fine of not more than one thousand dollars."

120. That the House concur in items 73 and 76 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

121. That the House concur in item 74 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

122. That the Senate recede from item 77 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

123. That the Senate recede from item 78 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

124. That the Senate recede from items 79 through 81 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

125. That the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 41, lines 30 through 32, by striking the words "magistrate appointed pursuant to section six hundred two point fifty-one (602.51) of the Code" and inserting in lieu thereof the word "magistrate".

126. That the Senate recede from item 82 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

127. That the Senate recede from item 84 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

128. That the House recede from item 469 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

129. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 317, by inserting after line 16 the following new section:

"Sec. ___. Chapter two hundred four (204), Code 1975, is amended by adding the following new section:

"NEW SECTION. MANDATORY MINIMUM SENTENCE. A person sentenced pursuant to section two hundred four point four hundred one (204.401), subsection one (1), paragraph a or b of the Code, shall not be eligible for parole until he or she has served a minimum period of confinement of one-third of the maximum indeterminant sentence prescribed by law.

This section shall not apply if:

1. The offense is found to be an accommodation pursuant to section two hundred four point four hundred ten (204.410) of the Code; or

2. The controlled substance is marijuana."

130. That the Senate recede from item 85 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

131. That the House recede from item 470 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

132. That the Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 320, by inserting after line 4 the following new section:

"Sec. ___. Section two hundred four point four hundred ten (204.410), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

204.410 ACCOMMODATION OFFENSE. In a prosecution for unlawful delivery or possession with intent to deliver a controlled substance, if the prosecution proves that the defendant violated the provisions of section two hundred four point four hundred one (204.401), subsection one (1), of the Code, but fails to prove that the defendant delivered or possessed with intent to deliver the controlled substance for the purpose of making a profit, the defendant shall be guilty of an accommodation offense and shall be sentenced as if he had been convicted of a violation of section two

hundred four point four hundred one (204.401), subsection three (3) of the Code. An accommodation offense may be proved as an included offense under a charge of delivering or possessing with the intent to deliver a controlled subtance in violation of section two hundred four point four hundred one (204.401), subsection one (1), of the Code.

The effective date of this section shall be July 1, 1976."

133. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 320 by striking lines 9 through 26 and inserting in lieu thereof the following subsection:

"___. The disposition of property, other than conveyances subject to forfeiture, which has been taken or detained under this chapter shall be made in accordance with division nine (IX) of chapter two (2) of this Act."

134. That the Senate recede from items 86, 87, and 89 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate.

135. That the House recede from item 478 of its amendment, S-5603, to Senate File 85 as amended, passed, and reprinted by the Senate.

136. That Senate File 85, as amended, passed, and reprinted be further amended as follows:

"___. Page 337, line 15, by inserting after the word "offense" the words "and shall be imprisoned in the county jail not less than two days".

137. Page 337, line 19, by inserting after the word "offense" the words "and shall be imprisoned in the county jail not less than seven days"."

138. That Senate File 85, as amended, passed, and reprinted by the Senate be further amended as follows:

"___. Page 337, by inserting after line 28 the following:

"Sec. ___. Section three hundred twenty-one point two hundred eighty-one (321.281), unnumbered paragraph five (5), Code 1975, is amended to read as follows:

This section shall not apply to a person operating a motor vehicle while under the influence of a narcotic, hypnotic or other drug if such substances were prescribed for such person and have been taken under such prescription and in accordance with the directions of a ~~reputable doctor of medicine~~ medical practitioner as defined in section one hundred fifty-five point three (155.3), subsection eleven (11), of the Code, provided however there is no evidence of the consumption of alcohol and further provided said ~~doctor of medicine~~ medical practitioner has not directed such person to refrain from operating a motor vehicle."

139. That the House concur in items 88 and 90 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

140. That the House concur in items 91 and 93 through 118 of the Senate amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

141. That the Senate recede from item 92 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

142. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 421, line 32, by inserting after the words and figure "three point three (223.3)," the words and figure "two hundred forty-five point fourteen (245.14),".

143. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended, page 421, line 34, by inserting after the words and figure "twenty-three (246.23)," the words and figure "two hundred forty-six point forty-four (246.44),".

144. That the Senate recede from items 119 and 120 of its amendment, H-6605, to the House amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

145. That the House recede from items 525 and 526 of its amendment, S-5603, to Senate File 85, as amended, passed, and reprinted by the Senate.

146. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 425, by inserting after line 30 the following section:

"Sec. ___. Acts of the Sixty-sixth General Assembly, Session, chapter one hundred eighty-three (183), is repealed. The provisions of this section shall take effect July 1, 1976."

147. That Senate File 85, as amended, passed, and reprinted by the Senate is further amended on page 426, by inserting after line 29 the following section:

"Sec. ___. Notwithstanding any other provision of the Code of Iowa, this Act shall, insofar as possible, be included in the Code of Iowa with the chapters, divisions and sections of this Act as the chapters, divisions and sections of the Code and with the descriptive word titles of the Act retained. No editorial modification of this Act shall be incorporated into the Code without prior approval of the director of the legislative service bureau."

148. That when amendments which have as their purpose the elimination of masculine or feminine forms of words or terms and the substitution of neuter words or terms which conflict with the substantive amendments adopted by the House or the Senate, the secretary of the senate is directed when preparing Senate File 85 for enrollment to disregard amendments which have as their purpose the elimination of masculine or feminine forms and the substitution of neuter words or terms.

ON THE PART OF THE SENATE:	ON THE PART OF THE HOUSE:
GENE W. GLENN, Chairperson	NORMAN G. JESSE, Chairperson
E. KEVIN KELLY	JULIA GENTLEMAN
NORMAN RODGERS	CARL V. NIELSEN
EARL M. WILLITS	BRICE C. OAKLEY

Senate adopted 5/28 (2440)
House adopted 5/28 (3313)

SENATE FILE 85

AN ACT

RELATING TO A COMPLETE REVISION OF THE SUBSTANTIVE CRIMINAL LAWS, CRIMINAL PROCEDURE LAWS, AND SENTENCING AND POST-CONVICTION PROCEDURE LAWS OF THIS STATE; PROVIDING RULES OF CRIMINAL PROCEDURE; PROVIDING CLASSIFICATIONS OF PUBLIC OFFENSES AND THEIR CONSEQUENT PENALTIES; AND PROVIDING PENALTIES FOR VIOLATIONS OF LAWS OF THE STATE TO ACCORD WITH THE REVISED CLASSIFICATIONS.

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

CHAPTER 1

DIVISION I

GENERAL PROVISIONS

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as "Iowa Criminal Code". A citation to the Iowa Criminal Code shall identify this Act together with all amendments which may be made so as to reflect the current state of the law.

Sec. 102. NEW SECTION. PUBLIC OFFENSE. A public offense is that which is prohibited by statute and is punishable by fine or imprisonment.

Sec. 103. NEW SECTION. PRESUMPTION OF INNOCENCE. Every person is presumed innocent until proved guilty. No person shall be convicted of any offense unless his or her guilt thereof is proved beyond a reasonable doubt.

Sec. 104. NEW SECTION. INSANITY. No person shall be convicted of any crime if at the time such crime is committed the person suffers from such a diseased or deranged condition of the mind so as to render the person incapable of knowing the nature and quality of the act he or she 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.

Sec. 105. NEW SECTION. INTOXICANTS OR DRUGS. The fact that a person is under the influence of intoxicants or drugs neither excuses the person's act nor aggravates his or her guilt, but may be shown where it is relevant 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.

Sec. 106. NEW SECTION. 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.

Sec. 107. NEW SECTION. 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 nor provides for a specific penalty, such felony shall be a class D felony.

Sec. 108. NEW SECTION. 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.

Sec. 109. NEW SECTION. 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.

Sec. 110. NEW SECTION. 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.

DIVISION II

DEFINITIONS

Section 201. NEW SECTION. 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.

Sec. 202. NEW SECTION. ACT. The term "act" includes a failure to do any act which the law requires one to perform.

Sec. 203. NEW SECTION. ANIMAL. An animal is any nonhuman, vertebrate.

Sec. 204. NEW SECTION. 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.

Sec. 205. NEW SECTION. CHILD. For purposes of this Act, unless another age is specified, a child is any person under the age of fourteen years.

Sec. 206. NEW SECTION. CONTROLLED SUBSTANCE. The term "controlled substance" means controlled substance as that term is defined and used in chapter two hundred four (204) of the Code.

Sec. 207. NEW SECTION. 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. 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, stilletto, or knife having a blade of three inches or longer in length.

Sec. 208. NEW SECTION. DEATH. "Death" means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician, 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 person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.

Sec. 209. NEW SECTION. 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 incumbering 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 he or she 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.

Sec. 210. NEW SECTION. 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.

Sec. 211. NEW SECTION. FORCIBLE FELONY. A forcible felony is any felonious assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree.

Sec. 212. NEW SECTION. OCCUPIED STRUCTURE. An occupied structure is any building, structure, 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.

Sec. 213. NEW SECTION. 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.

Sec. 214. NEW SECTION. PROPERTY. Property is anything of value, whether publicly or privately owned. 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".

Sec. 215. NEW SECTION. PROSTITUTE. A prostitute is a person who sells or offers for sale his or her services as a participant in a sex act.

Sec. 216. NEW SECTION. RECKLESS. A person is reckless

or acts recklessly when he or she willfully or wantonly disregards the safety of persons or property.

Sec. 217. NEW SECTION. SEX ACT. The term "sex act" or "sexual activity" means any sexual contact between two or more persons, by penetration of the penis into the vagina or anus, by contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person or by use of artifical sexual organs or substitutes therefore in contact with genitalia or anus.

Sec. 218. NEW SECTION. SERIOUS INJURY. "Serious injury" means 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.

Sec. 219. NEW SECTION. STEAL. "Steal" means to take by theft.

DIVISION III

PARTIES TO CRIME

Section 301. NEW SECTION. 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 he or she had in it, and does not depend upon the degree of another person's guilt.

Sec. 302. NEW SECTION. 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 his or her 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.

Sec. 303. NEW SECTION. ACCESSORY AFTER THE FACT.

1. Any person having knowledge that a felony has been committed, and who does not stand in the relation of husband

or wife to the person accused of committing the felony, who, with intent to prevent the apprehension of the accused person, harbors, aids or conceals the accused person, shall be guilty of an aggravated misdemeanor.

2. Any person having knowledge that a misdemeanor has been committed, and who does not stand in the relation of husband or wife to the person accused of committing the misdemeanor, who, with intent to prevent the apprehension of the accused person, harbors, aids or conceals the accused person, shall be guilty of a simple misdemeanor.

Sec. 304. NEW SECTION. RESPONSIBILITY OF EMPLOYERS. An employer, or his 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 his 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.

Sec. 305. NEW SECTION. LIABILITY OF CORPORATIONS, PARTNERSHIPS AND VOLUNTARY ASSOCIATIONS. A public or private corporation, partnership, or other voluntary association shall be guilty of a public offense when any of the following is true:

1. The conduct constituting the offense consists of an omission to discharge a specific duty or an affirmative performance imposed on the accused by law.

2. 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.

"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.

DIVISION IV

JUSTIFICATION

Section 401. NEW SECTION. REASONABLE FORCE. Reasonable force is that force which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss, and no more, except that the use of deadly force against another is reasonable only to resist a like force or threat. Reasonable force, including deadly force, may be used even if an alternative course of action is available if the alternative entails a risk to one's life or safety, or the life or safety of a third party, or requires one to abandon or retreat from his dwelling or place of business or employment.

Sec. 402. NEW SECTION. DEADLY FORCE. The term "deadly force" means any of the following:

1. Force used for the purpose of causing serious injury.

2. Force which the actor knows or reasonably should know will create a strong probability that serious injury will result.

3. The discharge of a firearm in the direction of some person with the knowledge of his presence there, even though no intent to inflict serious physical injury can be shown.

4. The discharge of a firearm at a vehicle in which a person is known to be.

Sec. 403. NEW SECTION. DEFENSE OF SELF OR ANOTHER. A person is justified in the use of reasonable force when he reasonably believes that such force is necessary to defend himself or herself, or another from any imminent use of

unlawful force.

Sec. 404. NEW SECTION. DEFENSE OF PROPERTY. A person is justified in the use of reasonable force to prevent or terminate criminal interference with his 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 which is placed for the purpose of preventing or terminating criminal interference with the possession of or other right in property.

Sec. 405. NEW SECTION. 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 his rights in property or in any public property.

Sec. 406. NEW SECTION. 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 himself or herself, 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 himself or herself by his or her unlawful acts, unless:

a. Such force is grossly disproportionate to the provocation, and is so great that the person reasonably believes that he or she 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.

Sec. 407. NEW SECTION. RESISTING FORCIBLE FELONY. A person who knows that a forcible felony is being perpetrated is justified in using, against the perpetrator, reasonable force to prevent the completion of that felony.

Sec. 408. NEW SECTION. 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 or should know is confined on a charge or conviction of a misdemeanor.

Sec. 409. NEW SECTION. 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 division two (II) of this chapter, shall not be criminally liable for such cessation of medical attention.

Sec. 410. NEW SECTION. 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 or menace of serious injury, provided that the person reasonably believes that such injury is imminent and can be averted only by his or her doing such act.

Sec. 411. NEW SECTION. POLICE ACTIVITY. A peace officer or person employed by any police agency who joins in the participation 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, provided that all of the following are true:

1. He or she is not the instigator of the criminal activity.

2. He or she does not intentionally injure a nonparticipant in the crime.

3. He or she acts with the consent of his or her superiors or the necessity of immediate action precludes his or her obtaining such consent.

4. His or her actions are reasonable under the circumstances.

Sec. 412. NEW SECTION. USE OF FORCE IN MAKING AN AR-

REST. A peace officer or other person making an arrest or securing an arrested person may use such force as is permitted by chapter two (2), sections four hundred eleven (411) through four hundred sixteen (416) of this Act.

DIVISION V

SOLICITATION

Section 501. NEW SECTION. SOLICITATION. Any person who commands, entreats, or otherwise attempts to persuade another 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, solicits such other to commit that felony or aggravated misdemeanor. One who solicits another to commit a felony of any class commits a class D felony. One who solicits another to commit an aggravated misdemeanor commits an aggravated misdemeanor.

Sec. 502. NEW SECTION. 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 (a) the person's belief that circumstances exist which increase the possibility of detection or apprehension of the defendant or another or which makes more difficult the consummation of the offense or (b) the person's decision to postpone the offense until another time or, to substitute another victim or another but similar objective.

DIVISION VI

CONSPIRACY

Section 601. NEW SECTION. CONSPIRACY. Conspiracy is an agreement or combination between two or more persons to engage in a course of conduct which will consist, in whole or in part, of criminal acts to be committed by one or more of the conspirators. A person shall not be convicted of a

conspiracy without proof of an overt act by one or more of the conspirators evidencing a design to accomplish the purpose of the conspiracy by criminal means.

Sec. 602. NEW SECTION. LOCUS OF CONSPIRACY. A person commits a conspiracy in any county where the person is physically present when he or she makes such agreement or combination, and in any county where the person with whom he or she 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.

Sec. 603. NEW SECTION. PENALTIES. A person who commits a conspiracy to commit a forcible felony is guilty of a class C felony. A person who commits a conspiracy to commit a felony, other than a forcible felony, is guilty of a class D felony. A person who commits a conspiracy to commit a misdemeanor is guilty of a misdemeanor of the same class.

Sec. 604. NEW SECTION. 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.

DIVISION VII

MURDER

Section 701. NEW SECTION. MURDER DEFINED. A person who kills another person with malice aforethought either express or implied commits murder.

Sec. 702. NEW SECTION. MURDER IN THE FIRST DEGREE. A person commits murder in the first degree when he or she commits murder under any of the following circumstances:

1. The person willfully, deliberately, and with premeditation kills another person.

2. The person kills another person while participating

in a forcible felony.

3. The person kills another person while escaping or attempting to escape from lawful custody.

4. The person intentionally kills a peace officer, correctional officer, public employee, or hostage while such person is imprisoned in a correctional institution under the jurisdiction of the department of social services, or in a city or county jail.

Murder in the first degree is a class A felony.

Sec. 703. NEW SECTION. MURDER IN THE SECOND DEGREE. A person commits murder in the second degree when he or she commits murder which is not murder in the first degree.

Murder in the second degree is a class B felony.

Sec. 704. NEW SECTION. VOLUNTARY MANSLAUGHTER. A person commits voluntary manslaughter when that person causes the death of another person, under circumstances which would otherwise be murder, if he or she 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 his or her control and suppress the impulse to kill.

Voluntary manslaughter is an included offense under an indictment for murder in the first or second degree.

Voluntary manslaughter is a class C felony.

Sec. 705. NEW SECTION. INVOLUNTARY MANSLAUGHTER.

1. A person commits 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.

2. A person commits 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.

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.

Sec. 706. NEW SECTION. No person who injures the aggressor through application of reasonable force in defense of his or her person or property may be held civilly liable for such injury.

No person who injures the aggressor through application of reasonable force in defense of a second person may be held civilly liable for such injury.

Sec. 707. NEW SECTION. FETICIDE. Any person who intentionally terminates a human pregnancy after the end of the second trimester of the pregnancy commits feticide. Feticide is a class C felony. 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 when in the best clinical judgment of the physician the termination is performed to preserve the life or health of the pregnant person or of the fetus and every reasonable medical effort not inconsistent with preserving the life of the pregnant person is made to preserve the life of the fetus.

Any person who terminates a human pregnancy who is not a person licensed to practice medicine and surgery under the provisions of chapter one hundred forty-eight (148) of the Code, or an osteopathic physician and surgeon licensed to practice osteopathic medicine and surgery under the provisions of chapter one hundred fifty A (150A) of the Code, commits a class C felony.

Sec. 708. NEW SECTION. NONCONSENTUAL TERMINATION.

1. A person who terminates a human pregnancy without the consent of the pregnant person during the commission of a felony or felonious assault is guilty of a class B felony.

2. A person who intentionally terminates a pregnancy without the knowledge and voluntary consent of the pregnant person is guilty of a class C felony. This subsection shall not apply to a termination performed without the consent or knowledge of the pregnant person by a physician licensed in this state to practice medicine and surgery when circumstances preclude the pregnant person from providing her consent and

the termination is performed to preserve the life or health of the pregnant person or of the fetus.

3. A person who by force or intimidation procures the consent of the pregnant person to a termination of a pregnancy is guilty of a class C felony.

Sec. 709. NEW SECTION. HOMICIDE OF FETUS ABORTED ALIVE. A person who intentionally kills a fetus aborted alive after the twentieth week of pregnancy shall be guilty of a class B felony.

Sec. 710. NEW SECTION. DUTY TO PRESERVE THE LIFE OF THE FETUS. After the twentieth week of pregnancy, 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 fetus showing significant, sustainable vital signs shall be guilty of a serious misdemeanor.

Sec. 711. NEW SECTION. ATTEMPT TO COMMIT HOMICIDE. A person commits a class C felony when, with the intent to cause the death of any person and not under circumstances which would justify the person's actions, the person does any act by which he or she expects to set in motion a force or chain of events which will cause or result in the death of such other person.

It is not a defense to an indictment for attempt to commit homicide 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.

DIVISION VIII

ASSAULT AND BATTERY

Section 801. NEW SECTION. ASSAULT. A person commits an assault when, without justification, the person does any of the following:

1. 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.

2. 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.

3. Intentionally points any firearm toward another, or displays in a threatening manner any dangerous weapon toward another.

Provided, that where the person doing any of the above 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, the act shall not be an assault.

Sec. 802. NEW SECTION. PENALTIES FOR ASSAULT.

1. A person who commits an assault, as defined in section eight hundred one (801) of this division, with the intent to inflict a serious injury upon another, shall be guilty of an aggravated misdemeanor.

2. Any other assault is a simple misdemeanor.

Sec. 803. NEW SECTION. ASSAULT WHILE PARTICIPATING IN A FELONY. Any person who commits an assault as defined in section eight hundred one (801) of this division while participating in a felony is guilty of a class C felony if the person thereby causes serious injury to any person; if no serious injury results, the person is guilty of a class D felony.

Sec. 804. NEW SECTION. WILLFUL INJURY. Any person who does an act which is not justified and which is intended to cause and does cause serious injury to another commits a class C felony.

Sec. 805. NEW SECTION. 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.

Sec. 806. NEW SECTION. TERRORISM. A person commits a class D felony when the person does any of the following with the intent to injure or provoke fear or anger in another:

1. Shoots, throws, launches, or discharges a dangerous weapon at or into any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person, and thereby places the occupants thereof in reasonable apprehension of serious injury.

2. Threatens to commit a forcible felony under circumstances raising a reasonable expectation that the threat will be carried out.

Sec. 807. NEW SECTION. HARASSMENT. 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, or writing without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

2. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by such person.

3. Orders merchandise or services in the name of another, or to be delivered to another, without such 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 same did not occur.

Harassment is a simple misdemeanor.

Sec. 808. NEW SECTION. 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.

Sec. 809. NEW SECTION. SPRING GUNS AND MANTRAPS. 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.

DIVISION IX

SEXUAL ABUSE

Section 901. NEW SECTION. SEXUAL ABUSE. Any sex act between persons is sexual abuse by either of the participants when the act is performed with the other participant in any of the following circumstances:

1. Such act is done by force or against the will of the other. In any case where the consent or acquiescence of the other is procured by threats of violence toward any person, the act is done against the will of the other.

2. Such other participant 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 participant is a child.

Sec. 902. NEW SECTION. SEXUAL ABUSE IN THE FIRST DEGREE. A person commits sexual abuse in the first degree when in the course of committing sexual abuse the person causes another serious injury.

Sexual abuse in the first degree is a class A felony.

Sec. 903. NEW SECTION. SEXUAL ABUSE IN THE SECOND DEGREE. A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

1. During the commission of sexual abuse the person displays in a threatening manner a deadly weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.

2. The other participant is under the age of twelve.

3. 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 participant.

Sexual abuse in the second degree is a class B felony.

Sec. 904. NEW SECTION. SEXUAL ABUSE IN THE THIRD DEGREE.

Any sex act between persons who are not at the time cohabiting as husband and wife is sexual abuse in the third degree by either of the participants when the act is performed with the other participant in any of the following circumstances:

1. Such act is done by force or against the will of the other.

2. The other participant 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. The other participant is a child.

4. The other person is fourteen years of age but less than sixteen years of age and the defendant is a member of the same household as the victim, the defendant is related to the victim by blood or affinity to the fourth degree, or the defendant is in a position of authority over the victim and used this authority to coerce the victim to submit.

Sexual abuse in the third degree is a class C felony.

Sexual abuse in the fourth degree is a class D felony.

Sec. 905. NEW SECTION. RESISTANCE TO SEXUAL ABUSE. Under the provisions of this division it shall not be necessary to establish physical resistance by a participant in order to establish that an act of sexual abuse was committed by force or against the will of the participant. 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.

Sec. 906. NEW SECTION. 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.

Sec. 907. NEW SECTION. DETENTION IN BROTHEL. Any person who, by force, intimidation, or false pretense entices another who is not a prostitute to enter a brothel with the intent to cause such other to become an inmate thereof, or who detains another, whether a prostitute or not, in any brothel, against

the will of such other, with the intent that such other engage in prostitution therein, commits a class C felony.

Sec. 908. NEW SECTION. LASCIVIOUS ACTS WITH A CHILD. It is unlawful for any person eighteen years of age or older to perform any of the following acts with a child with or without his or her consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:

1. Fondle or touch the pubes or genitals of a child.

2. Permit a child to fondle or touch his or her genitals or pubes.

3. Solicit a child to engage in a sex act.

4. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on him or her.

Any person who violates a provision of this section shall, upon conviction, be guilty of a class D felony.

Sec. 909. NEW SECTION. INDECENT EXPOSURE. A person who exposes his or her genitals or pubes to another not his or her spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor, if:

1. The person does so to arouse or satisfy the sexual desires of either party; and

2. The person knows or reasonably should know that his act is offensive to the viewer.

Sec. 910. NEW SECTION. COST OF MEDICAL EXAMINATION IN CRIMES OF SEXUAL ASSAULT. The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing venereal disease shall be borne by the state department of health.

DIVISION X

KIDNAPPING AND RELATED OFFENSES

Section 1001. NEW SECTION. KIDNAPPING. A person commits kidnapping when he or she either confines a person or removes a person from one place to another, knowing that he or she 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.

Sec. 1002. NEW SECTION. KIDNAPPING IN THE FIRST DEGREE. 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.

Kidnapping in the first degree is a class A felony.

Sec. 1003. NEW SECTION. KIDNAPPING IN THE SECOND DEGREE. Kidnapping where the purpose is to hold the victim for ransom or where the kidnapper is armed with a dangerous weapon is kidnapping in the second degree. Kidnapping in the second degree is a class B felony.

Sec. 1004. NEW SECTION. KIDNAPPING IN THE THIRD DEGREE. All other kidnappings are kidnappings in the third degree. Kidnapping in the third degree is a class C felony.

Sec. 1005. NEW SECTION. CHILD STEALING. A person commits a class C felony when, knowing that he or she has no authority to do so, 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.

Sec. 1006. NEW SECTION. VIOLATING CUSTODIAL ORDER. Any relative of a child who, acting in violation of any order of any court which fixes, permanently or temporarily, the custody of such child in another, takes such child and removes him from the state, without the consent of the person having lawful custody, commits a class D felony.

Sec. 1007. NEW SECTION. FALSE IMPRISONMENT. A person commits false imprisonment when, having no reasonable belief

that he or she has any right or authority to do so, the person intentionally confines another against his or her 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.

DIVISION XI

ROBBERY AND EXTORTION

Section 1101. NEW SECTION. ROBBERY. A person commits a robbery when, having the intent to commit a theft, the person 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:

1. Commits an assault upon another.

2. Threatens another with or purposely puts another in fear of immediate serious injury.

3. Threatens to commit immediately any forcible felony.

It is immaterial to the question of guilt or innocence of robbery that property was or was not actually stolen.

Sec. 1102. NEW SECTION. 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.

Sec. 1103. NEW SECTION. 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.

Sec. 1104. NEW SECTION. EXTORTION. 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:

1. Threatens to inflict physical injury on some person, or to commit any public offense.

2. Threatens to accuse another of a public offense.

3. Threatens to expose any person to hatred, contempt, or ridicule.

4. Threatens to harm the credit or business or professional reputation of any person.

5. 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.

6. Threatens to testify or provide information or to withhold testimony or information with respect to another's legal claim or defense.

7. Threatens to wrongfully injure the property of another.

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 he or she 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.

Extortion is a class D felony.

DIVISION XII

ARSON

Section 1201. NEW SECTION. ARSON. 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 he 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.

Sec. 1202. NEW SECTION. ARSON IN THE FIRST DEGREE. Arson is arson in the first degree when the property which the defendant intends to destroy or damage, or which the defendant knowingly endangers, is property in which the presence of one or more persons can be reasonably anticipated.

Arson in the first degree is a class B felony.

Sec. 1203. NEW SECTION. ARSON IN THE SECOND DEGREE. Arson which is not arson in the first degree is arson in the second degree when the property which the defendant intends to destroy or damage, or which the defendant knowingly endangers, is a building or a structure, or real property of any kind, or standing crops, or is personal property the value of which exceeds five hundred dollars. Arson in the second degree is a class C felony.

Sec. 1204. NEW SECTION. ARSON IN THE THIRD DEGREE. Arson which is not arson in the first degree or arson in the second degree is arson in the third degree. Arson in the third degree is an aggravated misdemeanor.

Sec. 1205. NEW SECTION. RECKLESS USE OF FIRE OR EXPLOSIVES. Any person who shall so use fire or any incendiary or explosive device or material as to recklessly endanger the property or safety of another shall be guilty of a serious misdemeanor.

Sec. 1206. NEW SECTION. POSSESSION OF EXPLOSIVE OR INCENDIARY MATERIALS OR DEVICES. Any person who shall possess any incendiary or explosive device or material with the intent to use such device or material to commit any public offense shall be guilty of a class C felony.

Sec. 1207. NEW SECTION. 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.

Sec. 1208. NEW SECTION. 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.

DIVISION XIII

BURGLARY

Section 1301. NEW SECTION. BURGLARY. 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 or area enclosed in such a manner as to provide a place for the keeping of valuable property secure from theft or criminal mischief, such occupied structure or place not being open to the public, or who remains 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 breaks an occupied structure or other place where anything of value is kept, commits burglary.

Sec. 1302. NEW SECTION. BURGLARY IN THE FIRST DEGREE. A person commits burglary in the first degree if, while perpetrating a burglary, the person has in his or her possession an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts physical injury on any person. Burglary in the first degree is a class B felony.

Sec. 1303. NEW SECTION. BURGLARY IN THE SECOND DEGREE. All burglary which is not burglary in the first degree is burglary in the second degree. Burglary in the second degree is a class C felony.

Sec. 1304. NEW SECTION. 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, shall be guilty of possessing burglar's tools. Possessing burglar's tools is a class C felony.

DIVISION XIV

THEFT

Section 1401. NEW SECTION. THEFT. 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 his or her 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 his or her own use, when the owner of such property is known to him or her. 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.

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, 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, draft, or written order on any bank, person or corporation, and obtains property in exchange therefor, if the person knows that such check, draft or written order will not be paid when

presented. 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 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.

7. 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.

8. Any act that is declared to be theft by any provision of the Code.

Sec. 1402. NEW SECTION. DEGREES OF THEFT.

1. The theft of property exceeding five 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 any property not exceeding five thousand dollars in value by one who has before been twice convicted of theft, or the theft by any other person of property exceeding five hundred dollars but not exceeding five thousand dollars in value or theft of a motor vehicle, irrespective of value, is theft in the second degree. Theft in the second degree is a class D felony.

3. The theft of property exceeding one hundred dollars but not exceeding five hundred dollars in value is theft in the third degree. Theft in the third degree is an aggravated misdemeanor.

4. The theft of property exceeding fifty dollars in value

but not exceeding one hundred 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 fifty dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

Sec. 1403. NEW SECTION. VALUE. The value of property is its normal market or exchange value within the community at the time that it is stolen. If money or property is stolen by a series of acts from the same person or location, or from different persons by a series of acts which occur in approximately the same location or time period so that the thefts are attributable to a single scheme, plan or conspiracy, such acts may be considered a single theft and the value may be the total value of all the property stolen.

Sec. 1404. NEW SECTION. 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 he or she has a right, privilege or license to do so, or if the person does in fact have such right, privilege or license.

Sec. 1405. NEW SECTION. EVIDENCE OF INTENTION. The fact that any person has concealed unpurchased property of any store or other mercantile establishment, either on the premises or outside the premises of such store, shall be material evidence of intent to deprive the owner thereof, and the finding of such unpurchased property concealed, upon the person or among the belongings of such person, shall be material evidence of intent to deprive and, if such person conceals, or causes to be concealed, such unpurchased property, upon the person or among the belongings of another, the finding of the same shall also be material evidence of intent to deprive on the part of the person concealing such goods.

Sec. 1406. NEW SECTION. LAND. The mere trespass on or occupation of land, contrary to the rights of the owner thereof, is not theft.

Sec. 1407. NEW SECTION. 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 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.

Sec. 1408. NEW SECTION. FRAUDULENT PRACTICES. A person who does any of the following acts is guilty of a fraudulent practice. A fraudulent practice is an aggravated misdemeanor.

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 any false affidavit or certificate, which is required by law, or which is given in support of any 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 his or her 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 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. 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 his own devices.

8. 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.

9. 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.

10. Does any act expressly declared to be a fraudulent practice by any other section of the Code.

DIVISION XV

FALSE USE OF A FINANCIAL INSTRUMENT

Section 1501. NEW SECTION. FINANCIAL INSTRUMENT DEFINED. A financial instrument is any of the following:

1. A check, bill note, draft, bond receipt, or any writing which ostensibly evidences an obligation of, or surrender of right or claim by, the person who has purportedly executed it or authorized its execution. Writing includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification.

2. Any deed, will or testamentary document, bill of sale, warehouse receipt, bill of lading, or any writing which purports to convey an interest in some property, or to be evidence of or to establish a right in some property.

3. Any letter, credit card, charge plate, or other device which is designed to identify the person tendering such device as one to whom credit may be extended, or as one to whom goods or services may be furnished and charged to the account of

another.

4. Any endorsement, acceptance, acknowledgement, codicil, or any writing of any kind upon or ancillary to any financial instrument which does or purports to affect such instrument or the rights or obligations evidenced thereby.

Sec. 1502. NEW SECTION. USE OF FINANCIAL INSTRUMENT DEFINED. One uses a financial instrument when he or she does any of the following:

1. Makes or executes such instrument or an endorsement thereon, or alters such instrument so as to materially change its nature or the right or obligation which it purports to represent.

2. Tenders or offers such instrument to another in the course of a financial or commercial transaction, with the representation, either express or by implication, that the instrument is what it purports to be and that he or she is a person who is shown on its face to be one who may rightfully so use such instrument.

3. Possesses such instrument, knowing it to be false or knowing that he or she has no right to use or possess it.

Sec. 1503. NEW SECTION. INTENT AND KNOWLEDGE. The term "intent to obtain fraudulently anything of value" includes the intent to deliver a financial instrument to another, knowing that the other person intends to use the instrument to obtain fraudulently something of value.

One acts with knowledge of facts when the person has information which would put a reasonable person on inquiry as to such facts, but acts without making a reasonable inquiry.

Sec. 1504. NEW SECTION. PROOF OF INTENT. The intent to obtain fraudulently anything of value shall not be proved by the mere possession of a falsified financial instrument or a financial instrument which the possessor has no right to use.

Sec. 1505. NEW SECTION. "PERSON" DEFINED. The term "person" as used in this division means a natural person, a fiduciary, a state, a private or public corporation or de facto corporation of any kind, or an officer or agent thereof,

and includes fictitious persons or corporations. It is immaterial that any person whom the instrument on its face identifies as having the right to use it, does or does not have such a right, or whether such person does or does not actually exist.

Sec. 1506. NEW SECTION. FALSE USE OF A FINANCIAL INSTRUMENT. The use of a financial instrument with the intent to obtain fraudulently anything of value by one who knows that the instrument is not what it purports to be, or who knows that he or she is not the person nor the authorized agent of the person who, as shown on the instrument, has the right to so use the instrument, shall constitute the false use of a financial instrument. False use of a financial instrument is a class C felony.

DIVISION XVI

DAMAGE AND TRESPASS TO PROPERTY

Section 1601. NEW SECTION. CRIMINAL MISCHIEF. Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act.

Sec. 1602. NEW SECTION. 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.

Sec. 1603. NEW SECTION. CRIMINAL MISCHIEF IN THE FIRST DEGREE. Criminal mischief is criminal mischief in the first degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed is more than five thousand dollars, or if such acts are intended to or do in fact cause a substantial interruption or impairment of 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. Criminal mischief in the first degree is a class C felony.

Sec. 1604. NEW SECTION. CRIMINAL MISCHIEF IN THE SECOND

DEGREE. Criminal mischief is criminal mischief in the second degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds five hundred dollars but does not exceed five thousand dollars. Criminal mischief in the second degree is a class D felony.

Sec. 1605. NEW SECTION. CRIMINAL MISCHIEF IN THE THIRD DEGREE. Criminal mischief is criminal mischief in the third degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds one hundred dollars, but does not exceed five hundred dollars, or if the property is a deed, will, commercial paper or any civil or criminal process or other instrument having legal effect, or if 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. Criminal mischief in the third degree is an aggravated misdemeanor.

Sec. 1606. NEW SECTION. CRIMINAL MISCHIEF IN THE FOURTH DEGREE. All criminal mischief which is not criminal mischief in the first degree, second degree or third degree is criminal mischief in the fourth degree. Criminal mischief in the fourth degree is a simple misdemeanor.

Sec. 1607. NEW SECTION. CRIMINAL TRESPASS.

1. The term "property" shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned.

2. The term "trespass" shall mean one or more of the following acts:

a. Entering upon or in property without justification or without the implied or actual permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without justification, or without the implied or actual permission of the owner, lessee, or person in lawful possession.

b. 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.

c. Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

d. 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.

3. The term "trespass" shall not mean entering upon the property of another for the sole purpose of retrieving personal 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.

Sec. 1608. NEW SECTION. PENALTIES.

1. Any person who knowingly trespasses upon the property of another commits a simple misdemeanor.

2. Any person committing a trespass as defined in section one thousand six hundred seven (1607) of this chapter which results in injury to any person or damage in an amount more than one hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

DIVISION XVII

INJURY TO ANIMALS

Section 1701. NEW SECTION. INJURIES TO ANIMALS. Any person who, having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously ad-

minister poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal, shall be guilty of an aggravated misdemeanor.

Sec. 1702. NEW SECTION. CRUELTY TO ANIMALS. Any person who shall impound or confine or cause to be impounded or confined, in any place, any domestic animal, or fowl, or any dog or cat, and fail to supply such animal during confinement with a sufficient quantity of food and water, or who shall torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat, or kill any such animal by any means which shall cause unjustified pain, distress or suffering, whether intentionally or negligently, shall be guilty of a simple misdemeanor.

Sec. 1703. NEW SECTION. EXHIBITIONS AND FIGHTS. A person who arranges, promotes, or stages an exhibition at which any animal is tormented, or any fight between animals or between a person and an animal, or who keeps a place where such exhibitions and fights are staged for the entertainment of spectators, commits a serious misdemeanor.

DIVISION XVIII

OFFENSES AGAINST THE GOVERNMENT

Section 1801. NEW SECTION. 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.

Sec. 1802. NEW SECTION. IMPERSONATING A PUBLIC OFFICIAL. Any person who falsely holds himself or herself out 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.

Sec. 1803. NEW SECTION. 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.

Sec. 1804. NEW SECTION. 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.

Sec. 1805. NEW SECTION. 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.

Sec. 1806. NEW SECTION. FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES. A person who reports or causes to be reported false information to a fire department or a law enforcement authority, knowing that the information is false, or who reports the alleged occurrence of a criminal act knowing the same did not occur, commits a simple misdemeanor.

DIVISION XIX

OBSTRUCTING JUSTICE

Section 1901. NEW SECTION. INTERFERENCE WITH OFFICIAL ACTS. A person who knowingly resists or obstructs anyone known by the person to be a peace officer in the performance of any act which is within the scope of the officer's lawful duty or authority, 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, commits a simple misdemeanor. If a person commits an interference with official acts, as defined in this section, and in so doing he purposely inflicts or attempts to inflict serious injury, or displays a dangerous weapon, or is armed with a firearm, he commits an aggravated misdemeanor.

Sec. 1902. NEW SECTION. 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.

Sec. 1903. NEW SECTION. OBSTRUCTING PROSECUTION. 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 conceal himself or herself, or to fail to appear when subpoenaed.

Sec. 1904. NEW SECTION. ESCAPE FROM CUSTODY.

1. A person convicted of a felony, or charged with the commission of a felony, who intentionally escapes from any detention facility or institution to which the person has been committed by reason of such conviction or charge, or from the custody of any public officer or employee to whom the person has been entrusted, commits a class D felony.

2. A person convicted or charged with a misdemeanor, who intentionally escapes from any detention facility or institution to which the person has been committed by reason of such conviction or charge, or from the custody of any public officer or employee to whom the person has been entrusted, commits a serious misdemeanor.

3. Any person who has been committed to any institution under the control of the division of adult corrections, or to any jail or correctional institution, who knowingly and voluntarily absents himself or herself from any place where the person is required to be, commits a serious misdemeanor.

Sec. 1905. NEW SECTION. 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.

Sec. 1906. NEW SECTION. 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 he 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.

Sec. 1907. NEW SECTION. FURNISHING INTOXICANTS TO INMATES. Any person not authorized by law who furnishes or knowingly makes available any intoxicating beverage to any inmate at any detention facility, correctional institution or any institution under the management of the department of social services, or who introduces any intoxicating beverage into the premises of any such institution, commits a simple misdemeanor.

Sec. 1908. NEW SECTION. FURNISHING CONTROLLED SUBSTANCE TO INMATE. Any person not authorized by law who furnishes or knowingly makes available any controlled substance to any

inmate at any detention facility or correctional institution, or at any institution under the management of the department of social services, or who introduces any controlled substance into the premises of any such institution, commits a class D felony.

DIVISION XX

INTERFERENCE WITH JUDICIAL PROCESS

Section 2001. NEW SECTION. 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.

Sec. 2002. NEW SECTION. PERJURY. 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.

Sec. 2003. NEW SECTION. 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.

Sec. 2004. NEW SECTION. TAMPERING WITH WITNESSES OR JURORS. A person who offers any bribe to any person who he or she believes has been or may be summoned as a witness or juror in any judicial or arbitration proceeding, or any legislative hearing, or who makes any threats toward such person or who forcibly or fraudulently detains or restrains such person, with the intent to improperly influence such witness or juror with respect to his or her testimony or decision in such case, or to prevent such person from testifying or serving in such case, or who, in retaliation for anything lawfully done by any witness or juror in any case, harasses such witness or juror, commits an aggravated misdemeanor.

Sec. 2005. NEW SECTION. USE OF FALSE PROCESS OR RECORDS. 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.

Sec. 2006. NEW SECTION. 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.

DIVISION XXI

OFFICIAL MISCONDUCT

Section 2101. NEW SECTION. 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.

Sec. 2102. NEW SECTION. 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 him or her to be in excess of that authorized by law.

2. Fails to report to the proper officer the receipt or expenditure of public monies, together with the proper vouchers therefor, when such is required of him or her by law.

3. Requests, demands, or receives from another for performing any service or duty which is required of him or her by law, or which is performed as an incident of his or her office or employment, any compensation other than the fee, if any, which he or she is authorized by law to receive for such performance.

4. By color of his or her office and in excess of the authority conferred on him or her 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 him or her 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.

Sec. 2103. NEW SECTION. MISUSE OF PUBLIC RECORDS AND FILES. A public officer or employee who, by reason of his

or her 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.

Sec. 2104. NEW SECTION. 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.

DIVISION XXII

BRIBERY AND CORRUPTION

Section 2201. NEW SECTION. BRIBERY. A person who offers, promises or gives anything of value or any benefit to any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or venireman, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board of arbitration, with intent to influence the act, vote, opinion, judgment, decision or exercise of discretion of such person with respect to his or her services in such capacity commits a class D felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state.

Sec. 2202. NEW SECTION. ACCEPTING BRIBE. Any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or venireman, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board

of arbitration who shall solicit or knowingly receive any promise or anything of value or any benefit given with the intent to influence the act, vote, opinion, judgment, decision or exercise of discretion of such person commits a class C felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state.

Sec. 2203. NEW SECTION. 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, use his position or influence to affect the outcome of any such sport, match, or contest or the score thereof.

Sec. 2204. NEW SECTION. BRIBERY OF ELECTOR. A person who offers, promises or gives anything of value or benefit to any elector for the purpose of influencing the elector's vote, in any election authorized by law, or any elector who receives anything of value or any benefit knowing that it was given for such purpose, commits an aggravated misdemeanor.

Sec. 2205. NEW SECTION. BRIBERY OF ELECTION OFFICIALS. A person who offers, promises or gives anything of value or any benefit to any precinct election official authorized by law, or to any executive officer attending the same, conditioned on some act done or omitted to be done contrary to his or her official duty in relation to such election, commits an aggravated misdemeanor.

Sec. 2206. NEW SECTION. IMPROPER VOTING. Any person who does any of the following commits a serious misdemeanor:

1. Votes more than once in any election which may be held by virtue of any law of this state.

2. Votes at any election authorized by law, knowing himself or herself not to be qualified.

Sec. 2207. NEW SECTION. MISCONDUCT BY ELECTION OFFICIAL. A precinct election official who knowingly does any of the following commits a serious misdemeanor:

1. Furnishes a voter with a ballot other than the proper ballot to be used at that election.

2. Causes a voter to cast his or her vote contrary to the voter's intention or wishes.

3. Changes any ballot, or in any way causes any vote to be recorded contrary to the intent of the person casting that vote.

4. Makes or consents to any false entry on the list of voters or poll books.

5. Places or permits another election official to place into a ballot box anything other than a ballot as provided in section forty-nine point eighty-five (49.85) of the Code, or who permits any person other than an election official to place anything into a ballot box.

6. Takes out of a ballot box, or permits to be so taken out, any ballot deposited therein, except in the manner prescribed by law.

7. Destroys or alters any ballot which has been given to an elector.

8. Permits any person to vote in a manner prohibited by law.

9. Refuses or rejects the vote of any qualified voter.

10. Wrongfully does any act or refuses to act for the purpose of avoiding an election, or of rendering invalid the ballots cast from any precinct or other district.

11. Having been deputized to carry the poll books of any election to the place where they are to be canvassed, willfully or negligently fails to deliver them to such place, safe, with seals unbroken, and within the time specified by law.

Sec. 2208. NEW SECTION. DURESS TO PREVENT VOTING. A person who unlawfully and by force, or threats of force, prevents or endeavors to prevent an elector from giving his or her vote at any public election commits an aggravated misdemeanor.

Sec. 2209. NEW SECTION. PROCURING VOTE BY DURESS. A person who procures, or endeavors to procure the vote of an elector for or against any candidate or for or against any issue by means of violence, threats of violence or by any means of duress commits an aggravated misdemeanor.

DIVISION XXIII

PUBLIC DISORDER

Section 2301. NEW SECTION. RIOT. A riot is three or more persons assembled together in a violent 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.

Sec. 2302. NEW SECTION. 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, knowing or having reasonable grounds to believe that it is such, commits a simple misdemeanor.

Sec. 2303. NEW SECTION. 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.

Sec. 2304. NEW SECTION. DISORDERLY CONDUCT. A person commits a simple misdemeanor when the person does any of the following:

1. 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.

2. Makes loud and raucous noise in the vicinity of any residence or hospital which causes unreasonable distress to the occupants thereof.

3. 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.

4. 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.

5. 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.

6. 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 a public offense.

7. Without authority or justification, the person obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

DIVISION XXIV

WEAPONS

Section 2401. NEW SECTION. OFFENSIVE WEAPONS. An offensive weapon is any device or instrumentality of the following types.

1. 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.

2. A shotgun having a barrel or barrels shorter than eighteen inches in length, or a rifle having a barrel or barrels shorter than sixteen inches in length.

3. 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 pro-

pellant 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.

4. A bomb, grenade, or mine, whether explosive, incendiary, or poison gas; any rocket having a propellant charge of more than four ounces; any missile having an explosive charge of more than one-quarter ounce; or any device similar to any of these.

5. Any part or combination of parts either designed or intended to be used to convert any device into an offensive weapon as described in subsections one (1) through four (4), inclusive, of this section, 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.

Sec. 2402. NEW SECTION. AUTHORITY TO POSSESS. Any of the following is authorized to possess an offensive weapon when his or her duties or lawful activities require or permit such possession:

1. Any peace officer.

2. Any member of the armed forces of the United States or of the national guard.

3. Any person in the service of the United States.

4. 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.

5. 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.

6. Any correctional officer, serving in an institution under the authority of the division of adult corrections.

Sec. 2403. NEW SECTION. UNAUTHORIZED POSSESSION OF OFFENSIVE WEAPONS. Any person, other than a person authorized herein, who knowingly possesses an offensive weapon commits a class D felony.

Sec. 2404. NEW SECTION. CARRYING WEAPONS. A person who goes armed with a dangerous weapon concealed on or about his person, or who, within the limits of any city, goes armed with a pistol or revolver, or any loaded firearm of any kind, whether concealed or not, or who knowingly carries or transports in a vehicle a pistol or revolver, commits an aggravated misdemeanor, provided that this section shall not apply to any of the following:

1. A person who goes armed with a dangerous weapon in his or her own dwelling or place of business, or on land owned or possessed by the person.

2. Any peace officer, when his or her duties require the person to carry such weapons.

3. Any 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 weapons are carried in connection with his or her duties as such.

4. Any person who for any lawful purpose carries an unloaded pistol, revolver, or other dangerous weapon inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person.

5. Any person who for any lawful purpose carries or transports an unloaded pistol or revolver in any vehicle 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.

6. Any person while he or she is lawfully engaged in target practice on a range designed for that purpose or while engaged in lawful hunting for game in any place designated by local law as a hunting area.

7. Any person who has in his or her possession and who displays to any peace officer on demand a valid permit to carry weapons which has been issued to the person, and whose conduct is within the limits of that permit. No person shall be convicted of a violation of this section if the person produces at his or her trial a permit to carry weapons which was valid at the time of the alleged offense and which would

have brought the person's conduct within this exception if the permit had been produced at the time of the alleged offense.

8. Any correctional officer, when his or her duties require, serving under the authority of the division of adult corrections.

Sec. 2405. NEW SECTION. PROFESSIONAL PERMITS TO CARRY WEAPONS. A person may be issued a permit to carry weapons when the person's employment as a security guard, private detective licensed under chapter eighty A (80A) of the Code, bank messenger or other person transporting property of a value requiring security, or in police work, reasonably justifies that person going armed. Such permits shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder thereof, and shall state the nature of the employment requiring his or her going armed. A permit so issued shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in such employment, and while going to and from the place of such employment. Any such permit shall expire twelve months after the date when issued. When such employment is terminated, the holder of such permit shall surrender his or her permit to the issuing officer for cancellation.

Sec. 2406. NEW SECTION. NONPROFESSIONAL PERMITS. Any person who can reasonably justify his or her going armed may 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 thereof, and state the reason for the issuance of the permit, and the limits of the authority granted by such permit. All permits so issued shall be for a definite period as established by the issuing officer, but in no event shall exceed a period of twelve months.

Sec. 2407. NEW SECTION. TRAINING PROGRAM. A training program to qualify persons in the safe use of firearms shall be provided by the issuing officer of permits, as provided

in section two thousand four hundred ten (2410) of this division. The commissioner of public safety shall approve the training program, and the county sheriff or the commissioner of public safety conducting the training program within their respective jurisdictions may contract with a private organization or use the services of other agencies, or may use a combination of the two, to provide such training. Any person eligible to be issued a permit to carry weapons may enroll in such course. A fee sufficient to cover the cost of the program may be charged each person attending. Certificates of completion, on a form prescribed and published by the commissioner of public safety, shall be issued to each person who successfully completes the program. No person shall be issued either a professional or nonprofessional permit unless he has received a certificate of completion or is a certified peace officer. No peace officer or correctional officer, except a certified peace officer, shall go armed with a pistol or revolver unless he or she has received a certificate of completion, provided that this requirement shall not apply to persons who are employed in this state as peace officers on the effective date of this Act until six months after the effective date of this Act, or to peace officers of other jurisdictions exercising their legal duties within this state.

Sec. 2408. NEW SECTION. PERSONS ELIGIBLE. No person shall be issued a professional or nonprofessional permit to carry weapons unless:

1. The person is eighteen years of age or older.

2. The person has never been convicted of a forcible felony.

3. The person is not addicted to the use of alcohol or any controlled substance.

4. The person has no history of repeated acts of violence.

5. The issuing officer reasonably determines from competent evidence that the applicant does not constitute a danger to himself or others.

6. He has never been convicted of any crime defined in

division eight (VIII) of this Act, except "assault" as defined in section eight hundred one (801) of this Act and "harrassment" as defined in section eight hundred eight (808) of this Act.

Sec. 2409. NEW SECTION. APPLICATION. No person shall 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 state the full name, social security number, residence, and age of the applicant, and shall state whether the applicant has ever been convicted of a felony, whether the person is addicted to the use of alcohol or any controlled substance, and whether he has any history of mental illness or repeated acts of violence. Any person who knowingly makes a false statement on such application commits an aggravated misdemeanor.

Sec. 2410. NEW SECTION. ISSUANCE OF PERMIT. Applications for permits to carry weapons shall be made to the sheriff of the county in which the applicant resides. Applications from 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 issuance of the permit shall be by and at the discretion of the sheriff or commissioner, who shall, before issuing the permit, determine that the requirements of sections two thousand four hundred five (2405) through two thousand four hundred nine (2409), inclusive, of this division have been satisfied. However, the training program requirements in sections two thousand four hundred seven (2407) of this division may be waived for renewal permits. The issuing officer shall collect a fee of three dollars, except from a duly appointed peace officer, for each permit issued. Renewal permits shall be issued for a fee of one dollar. The issuing officer shall notify the commissioner of public safety of the issuance of any permit.

Sec. 2411. NEW SECTION. PERMITS NOT TRANSFERABLE. Permits to carry weapons shall be issued to a specific person only,

and may not be transferred from one person to another.

Sec. 2412. NEW SECTION. REPORT AND RECORD OF SALES. Any person who sells or transfers ownership of a revolver or pistol, whether such person is a dealer or otherwise, shall report within five days to the county sheriff the sale or transfer of such weapon, on forms prescribed and published by the commissioner of public safety, and on the forms shall set forth the time of selling or transfer, the age, occupation, place of employment or business, name and residence of such recipient of such weapon, together with the model, caliber, serial number, and make of such weapon, and the sheriff on receipt of such information shall make a permanent record of the same in a book specially kept for that purpose. A copy of this report shall be forwarded by the sheriff to the commissioner of public safety. Any person who fails to make a report as required by this section shall be guilty of a simple misdemeanor. Any person who transfers the ownership of a revolver or pistol to a person related to him or her within the second degree of consanguinity or affinity shall be exempt from the reporting requirements of this section.

Sec. 2413. NEW SECTION. GIVING FALSE INFORMATION WHEN PURCHASING WEAPON. A person who gives a false name or presents false identification, or otherwise gives false information to one from whom the person seeks to purchase a pistol or revolver, commits an aggravated misdemeanor.

Sec. 2414. NEW SECTION. SALE TO MINORS. A person who sells, loans, gives or makes available a firearm or ammunition for a firearm, to any person below the age of eighteen years commits a simple misdemeanor; provided, that a rifle or shotgun or the ammunition therefor, which lawfully may be used for hunting, may be given to such person by his or her parent or guardian, or by another with the express consent of his or her parent or guardian; and further provided, that any such person may allow a minor to possess a rifle, shotgun, or pistol, and the ammunition therefor, while on military duty, when such duty requires the possession of such a weapon,

or while receiving instruction in the proper use thereof from an adult instructor.

Sec. 2415. NEW SECTION. REVOCATION OF PERMITS. The issuing officer may revoke any permit to carry weapons when the officer learns that any of the conditions required for the issuance of that permit as stated in sections two thousand four hundred five (2405) through two thousand four hundred nine (2409), inclusive, of this division have ceased to exist, or when the officer learns that that permit was improperly issued. When the issuing officer revokes a permit, the officer shall notify the permit holder of such revocation on a form prescribed and published by the commissioner of public safety, and shall forward a copy of the form to the commissioner of public safety. From the time the permit holder receives notice of revocation, the permit shall cease to have any force or effect. Permit revocations may be reviewed by writ of certiorari.

Sec. 2416. NEW SECTION. RECORDS KEPT BY COMMISSIONER. The commissioner of public safety shall maintain a permanent record of all permits authorized by this division of permit revocations and reports of sales of weapons required by this division.

Sec. 2417. NEW SECTION. PERMIT TO PURCHASE REQUIRED. Any person who purchases a pistol or revolver without a valid permit to purchase pistols or revolvers or any person who sells a pistol or revolver to a person who does not have in his or her possession a valid permit to purchase pistols or revolvers is guilty of a simple misdemeanor.

Sec. 2418. NEW SECTION. APPLICATION. The application for a permit to purchase pistols or revolvers may be made to the sheriff of any county and shall be on a form prescribed and published by the commissioner of public safety. The application shall state the full name of the applicant, the social security number of the applicant, the residence of the applicant, and the age of the applicant.

Sec. 2419. NEW SECTION. ISSUANCE. The permit to purchase pistols or revolvers shall be issued to the applicant

immediately upon completion of the application and shall be on a form prescribed and published by the commissioner of public safety. The permit shall contain the name of the permittee, the social security number of the permittee, the residence of the permittee, and the effective date of the permit.

Sec. 2420. NEW SECTION. VALIDITY. The permit shall be valid throughout the state and shall be valid three days after the date of application and shall be invalid one year after the date of application.

Sec. 2421. NEW SECTION. MAILING OF APPLICATIONS. A person may by mail or personally request the sheriff to mail an application for a permit to purchase pistols or revolvers and the sheriff shall immediately forward to such person an application for a permit to purchase pistols or revolvers. A person may upon completion of the application mail such application to the sheriff who shall note the period of validity on the application and shall immediately forward the permit to purchase 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.

Sec. 2422. NEW SECTION. PURCHASE OR SALE OF FIREARMS IN CONTIGUOUS STATES. A resident of Iowa not otherwise precluded by applicable law, may purchase firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories in states contiguous to Iowa. This authorization is enacted in conformance with the Gun Control Act of 1968, 18 U.S.C., section 922 (b) (3) (A). In the event that presently enacted federal restrictions on the purchase of firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories are repealed or set aside by courts of competent jurisdiction, this section shall in no way be interpreted to prohibit or restrict the purchase of firearms, shotguns, rifles, ammunition, reloading components, or firearms accessories by residents of Iowa otherwise competent to purchase the same in contiguous or other states.

A dealer licensed in Iowa may sell or deliver a rifle or shotgun, and a collector licensed in Iowa may sell or deliver a rifle or shotgun if it is a curio or relic, to a resident of an adjacent state, if the purchaser's state of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of Iowa and the adjacent state, and the purchaser and licensee have, prior to the sale or delivery for sale of the rifle or shotgun, complied with all the requirements of the federal Gun Control Act of 1968.

Sec. 2423. NEW SECTION. EXISTING PERMITS. Any permit issued by virtue of the authority granted by chapter six hundred ninety-five (695) of the Code prior to the effective date of the repeal of that chapter by this Act shall remain in effect until its normal expiration date.

Sec. 2424. NEW SECTION. DUTY TO CARRY PERMIT. It shall be the duty of any person armed with a revolver, pistol, or pocket billy concealed upon his or her person to have in his or her immediate possession the permit provided for in this division and to produce same for inspection at the request of any peace officer. Failure to so produce such permit shall constitute a simple misdemeanor.

Sec. 2425. NEW SECTION. FELONY DEFINED. As used in section two thousand four hundred twenty-six (2426) of this division the word "felony" means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year.

Sec. 2426. NEW SECTION. RECEIPT, TRANSPORTATION AND POSSESSION OF FIREARMS AND DESTRUCTIVE DEVICES BY FELONS. Any person who is convicted of a felony in any state or federal court and who subsequently possesses, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of an aggravated misdemeanor.

Sec. 2427. NEW SECTION. EXCEPTION. The provisions of section two thousand four hundred twenty-six (2426) of this division shall not apply to a person who is pardoned or has had his or her civil rights restored, by the President of the United States or the chief executive of a state and who

is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices.

DIVISION XXV

VICE

Section 2501. NEW SECTION. PROSTITUTION. A person who sells or offers for sale his or her services as a partner in a sex act, or who purchases or offers to purchase such services, commits an aggravated misdemeanor.

Sec. 2502. NEW SECTION. PIMPING. 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.

Sec. 2503. NEW SECTION. PANDERING. A person who persuades or arranges for another to become an inmate of a brothel, or to become a prostitute, such person not having previously engaged in prostitution, or to return to the practice of prostitution after having abandoned it, or who keeps or maintains a brothel or who knowingly takes a share in the income from a brothel, commits a class D felony.

Sec. 2504. NEW SECTION. 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.

Sec. 2505. NEW SECTION. PUBLIC INDECENT EXPOSURE. A holder of a liquor license or beer permit or any owner, manager, or person who exercises direct control over any licensed premises defined in section one hundred twenty-three point three (123.3), subsection thirty-one (31) of the Code shall be guilty of a serious misdemeanor under any of the

following circumstances:

1. If such person allow or permit the actual or simulated public performance of any sex act upon or in such licensed premises.

2. If such person allow or permit the exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

3. If such person allow or permit the exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

4. If such person allow or permit any person to remain in or upon the licensed premises who exposes to public view his or her genitals, pubic hair, or anus.

5. If such person allow or permit the displaying of moving pictures, films, or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

Provided that 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 any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

Sec. 2506. NEW SECTION. EXHIBITING DEFORMED OR ABNORMAL PERSONS. Any person who shall exhibit, place on exhibition, or cause to be exhibited any deformed, maimed, idiotic or abnormal person or human monstrosity without his or her consent, and receive any fee or compensation therefor, commits a serious misdemeanor.

DIVISION XXVI

PROTECTION OF THE FAMILY

Section 2601. NEW SECTION. BIGAMY. Any person, having a living husband or wife, who marries another, commits bigamy. Any of the following is a defense to the charge of bigamy:

1. 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.

2. The person believes, on reasonably convincing evidence, that the prior spouse is dead.

3. The person has, for three years, had no evidence by which he or she can reasonably believe that the prior spouse is alive.

Any person who marries another who the person knows has another living husband or wife commits bigamy. Bigamy is a serious misdemeanor.

Sec. 2602. NEW SECTION. INCEST. A person, except a child as defined in this Act, who has sexual intercourse with any person whom he or she knows to be related to him, 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.

Sec. 2603. NEW SECTION. ABANDONING CHILD. 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 himself or herself, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect himself or herself 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.

Sec. 2604. NEW SECTION. HUSBAND OR WIFE MAY BE WITNESS. In all prosecutions under section two thousand six hundred three (2603) of this Act, the husband or wife shall be a competent witness for the state and may testify to any relevant acts or communications between them, anything in previous statutes to the contrary notwithstanding, provided, however, that no husband or wife shall be called or compelled to testify against the other under section two thousand six hundred three (2603) of this Act except upon consent of such witness.

Sec. 2605. NEW SECTION. NONSUPPORT. A person, who being able to do so, fails or refuses to provide support for his

or her child or ward under the age of eighteen years commits nonsupport; provided that no person shall be held to have violated this section who fails to support any child or ward under the age of eighteen who has left the home of the parent or other person having legal custody of him or her without the consent of that parent or person having legal custody of him or her. 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. Nonsupport is a class D felony.

Sec. 2606. NEW SECTION. WANTON NEGLECT OF A CHILD. A person who is the parent or adoptive parent or any person having custody of any child under the age of eighteen years commits wanton neglect of a child when the person does any of the following:

1. The person knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of such child.

A parent or adoptive parent or person having custody who provides his or her child exclusively with nonmedical treatment by a religious method of healing permitted under the laws of this state shall not, for this reason alone, be considered in violation of this subsection.

2. The person abandons such child to fend for himself or herself, knowing that the child is unable to do so.

Wanton neglect of a child is a serious misdemeanor.

Sec. 2607. NEW SECTION. WANTON NEGLECT OF A RESIDENT OF A HEALTH CARE FACILITY. 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, mental or moral welfare of a resident of a health care facility as defined in section one hundred thirty-five C point one (135C.1) of the Code. Wanton neglect of a resident of a health care facility is a serious misdemeanor.

DIVISION XXVII

HEALTH, SAFETY AND WELFARE

Section 2701. NEW SECTION. 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.

Sec. 2702. NEW SECTION. FIREWORKS. The term "fireworks" shall mean and include 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 shall include blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance. The term "fireworks" shall not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, no flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, nor toy snakes which contain no mercury nor caps used in cap pistols. Except as hereinafter provided, any person, firm, copartnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any fireworks, commits a serious misdemeanor; provided the council of any city or the county board of supervisors may, upon application in writing, grant a permit for the display of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by such city or such county board of supervisors when such fireworks display will be handled by a competent operator but no such permit shall be required for such display of fireworks at the Iowa state fairgrounds by the Iowa state fair board nor of incorporated county fairs nor of district fairs receiving state aid. Sales of fireworks for such display may be made for that purpose only; provided further, that nothing in this section shall be construed to

prohibit any resident, dealer, manufacturer, or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same 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; and provided further that nothing in this section shall apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

Sec. 2703. NEW SECTION. ABANDONED OR UNATTENDED REFRIGERATORS. Any person who abandons or otherwise leaves unattended any refrigerator, ice box, 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.

Sec. 2704. NEW SECTION. 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.

Sec. 2705. NEW SECTION. OBSTRUCTING EMERGENCY PHONE CALLS. An emergency call is any call to a fire department or police department for aid, or a call for medical aid or ambulance service, when human life or property is in jeopardy and the prompt summoning of aid is essential. Any person who fails to relinquish any telephone or telephone line which the person is using when informed that such phone or line is needed for an emergency call commits a simple misdemeanor.

Sec. 2706. NEW SECTION. 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.

Sec. 2707. NEW SECTION. PUBLICATION REQUIRED. Every telephone company doing business in this state shall print a copy of sections two thousand seven hundred five (2705) and two thousand seven hundred six (2706) of this division 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.

Sec. 2708. NEW SECTION. ELECTRONIC AND MECHANICAL EAVESDROPPING. 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; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.

Sec. 2709. NEW SECTION. 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.

DIVISION XXVIII

OBSCENITY

Section 2801. NEW SECTION. DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Obscene material" is any material depicting or describing the genitals, sex acts, masturbation, excretory functions or sado-masochistic 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.

2. "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.

3. "Disseminate" means to transfer possession, with or without consideration.

4. "Knowingly" means being aware of the character of the matter.

5. "Sado-masochistic 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.

6. "Minor" means any person under the age of eighteen.

7. "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 or another person or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

Sec. 2802. NEW SECTION. DISSEMINATION AND EXHIBITION OF OBSCENE MATERIAL TO MINORS. Any person, 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 of a serious misdemeanor.

Sec. 2803. NEW SECTION. ADMITTING MINORS TO PREMISES WHERE OBSCENE MATERIAL IS EXHIBITED. Any person who knowingly

sells, gives, delivers, or provides a minor with a pass or admits a minor to premises where obscene material is exhibited is guilty of a public offense and shall upon conviction be guilty of a serious misdemeanor.

Sec. 2804. NEW SECTION. Any person who knowingly sells or offers for sale material depicting a sex act involving sado-masochistic abuse, excretory functions, a child, or bestiality which the average adult taking the material as a whole in applying contemporary community standards would find that it appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be guilty of a simple misdemeanor. Charges under this section may only be brought by a county attorney, the attorney general, or a grand jury.

Sec. 2805. NEW SECTION. 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 his or or her 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 division.

Sec. 2806. NEW SECTION. EXEMPTIONS FOR PUBLIC LIBRARIES AND EDUCATIONAL INSTITUTIONS. Nothing in this division 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 division prohibits the attendance of minors at an exhibition or display of art works or the use of any materials in any public library.

Sec. 2807. NEW SECTION. SUSPENSION OF LICENSES OR PERMITS. Any person who knowingly permits a violation of section two thousand eight hundred two (2802) or two thousand eight hundred

three (2803) of this chapter 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 two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter.

Sec. 2808. NEW SECTION. EVIDENCE CONSIDERED. At a trial for violation of section two thousand eight hundred two (2802) or two thousand eight hundred three (2803) of this chapter 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.

Sec. 2809. NEW SECTION. 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 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.

Sec. 2810. NEW SECTION. UNIFORM APPLICATION. In order to provide for the uniform application of the provisions of this division 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 division, 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, whether enacted before or after this Act, shall be or become void, unenforceable and of no effect upon the effective date of this Act. Nothing in this section shall restrict the zoning authority of cities and counties.

CHAPTER 2

DIVISION I

CRIMINAL PROCEDURE SCOPE AND DEFINITIONS

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the "Iowa code of criminal procedure".

Sec. 102. NEW SECTION. SCOPE. The provisions of this code shall govern procedure in the courts of Iowa in all criminal proceedings except where a different procedure is specifically provided by law.

Sec. 103. NEW SECTION. GENERAL PURPOSES. The provisions of this code 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.

Sec. 104. NEW SECTION. GENERAL DEFINITIONS. For the purposes of this Act, unless the context otherwise requires:

1. "Attorney general" includes an authorized assistant of the attorney general.

2. "Charge" means a written statement presented to a court accusing a person of the commission of a public offense, in-

cluding but not limited to a complaint, information, or indictment.

3. "County attorney" includes an authorized assistant of the county attorney.

4. "Court" means a place where justice is administered by a magistrate and includes such magistrate while acting in his or her judicial capacity.

5. "Criminal proceeding" is a proceeding in which a person is accused of a public offense.

6. "Magistrate" means all judges of the district court, including district associate judges and judicial magistrates throughout the state.

7. "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 policemen of cities and towns.

c. Special agents appointed by the commissioner of public safety and members of the department of public safety, except members of the clerical force, as defined in section ninety-seven A point one (97A.1), subsection two (2) of the Code.

d. Probation and parole agents acting pursuant to chapter three (3), section five hundred two (502) of this Act.

e. Probation officers acting pursuant to section two hundred thirty-one point ten (231.10) of the Code.

f. Employees of the director of the department of general services pursuant to section eighteen point twelve (18.12), subsection two (2) of the Code.

g. Special security officers employed by board of regent's institutions as set forth in section two hundred sixty-two point thirteen (262.13) of the Code.

h. Conservation officers as authorized by section one hundred seven point thirteen (107.13) of the Code.

i. Such employees of the department of transportation as are designated "peace officers" by resolution of the department under section three hundred twenty-one point four hundred

seventy-seven (321.477), Code 1975.

j. Such persons as may be otherwise so designated by law.

8. "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 he or she is charged. In the case of prosecution for a municipal ordinance violation, "prosecuting attorney" means a city attorney or an assistant city attorney.

9. 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.

10. "Indigent" is a person with insufficient resources as defined in section three hundred thirty-six A point four (336A.4) of the Code.

11. "Complaint" means a statement in writing, under oath or affirmation, made before a magistrate, of the commission of a public offense, and accusing someone thereof. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure.

12. "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.

DIVISION II

LIMITATION OF CRIMINAL ACTIONS

Section 201. NEW SECTION. MURDER. A prosecution for murder in the first or second degree may be commenced at any time after the death of the victim.

Sec. 202. NEW SECTION. EIGHTEEN-MONTH LIMITATION. An indictment or information for sexual abuse or its attempt shall be found within eighteen months after its commission.

Sec. 203. NEW SECTION. THREE-YEAR LIMITATION. In all

cases, except those enumerated in sections two hundred one (201) and two hundred two (202) of this division, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

Sec. 204. NEW SECTION. ONE-YEAR LIMITATION. 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.

Sec. 205. NEW SECTION. EXTENSION FOR FRAUD, FIDUCIARY BREACH. If the period prescribed in sections two hundred two (202), two hundred three (203) and two hundred four (204) of this division has 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 legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

Sec. 206. NEW SECTION. PERIODS EXCLUDED FROM LIMITATION.

1. When a person leaves the state with the intention of avoiding prosecution, the indictment or prosecution may be found or commenced within the time herein limited after his or her 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.

Sec. 207. NEW SECTION. CONTINUING CRIMES. When an offense is based on a series of acts committed at different times, the period of limitation prescribed by this division shall commence upon the commission of the last of such acts.

Sec. 208. NEW SECTION. TIME OF FINDING INDICTMENT AND

INFORMATION. Within the meaning of this division:

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.

Sec. 209. NEW SECTION. 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 same 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 division.

DIVISION III

JURISDICTION OF PUBLIC OFFENSES AND PLACE OF TRIAL

Section 301. NEW SECTION. STATE CRIMINAL JURISDICTION.

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 he 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. 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.

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 homicide victim is found within the state, the death 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 com-

mitted within the state, regardless of the location of the person at the time of the omission.

Sec. 302. NEW SECTION. PLACE OF TRIAL--GENERAL. Criminal actions shall be tried in the county in which the crime is committed, except as otherwise provided by law. All objections to place of trial are waived by a defendant unless the defendant objects thereto prior to trial.

Sec. 303. NEW SECTION. 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 the offense is a traffic offense, section seven hundred fifty-three point twenty (753.20) of the Code shall be applicable.

Sec. 304. NEW SECTION. 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.

DIVISION IV

COMMENCEMENT OF ACTIONS; ARREST; DISPOSITION OF PRISONERS

Section 401. NEW SECTION. ARREST BY WARRANT--COMPLAINT AND CITATION DEFINED. 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 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.

Whenever the complaint charges a misdemeanor the magistrate may in his or her discretion 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 therein.

The citation may be served in the same manner as an original notice in a civil action.

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.

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.

Sec. 402. NEW SECTION. 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, city, or town where issued, and be signed by the magistrate with the magistrate's name of office.

Sec. 403. NEW SECTION. 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)."

Sec. 404. NEW SECTION. MANNER OF EXECUTING WARRANT. The warrant may be delivered to any peace officer for execution, and served in any county in the state.

Sec. 405. NEW SECTION. 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 his or her submission to custody.

Sec. 406. NEW SECTION. PERSONS AUTHORIZED TO MAKE AN ARREST. An arrest pursuant to a warrant may be made by a peace officer; in other cases, an arrest may be made by a peace officer or by a private person.

Sec. 407. NEW SECTION. ARRESTS BY PEACE OFFICERS. A peace officer may make an arrest in obedience to a warrant delivered to the peace officer; and without a warrant:

1. For a public offense committed or attempted in the peace officer's presence.

2. Where a public offense has in fact been committed, and the peace officer has reasonable ground for believing that the person to be arrested has committed it.

3. Where the peace officer has reasonable ground for believing that an indictable public offense has been committed and has reasonable ground for believing that the person to be arrested has committed it.

4. 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.

Sec. 408. NEW SECTION. ARREST OF MATERIAL WITNESS. 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.

At the time of the arrent, the law enforcement officer shall inform the person of:

1. His or her identity as a law enforcement officer; and

2. 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.

Sec. 409. NEW SECTION. INITIAL APPEARANCE BEFORE MAGISTRATE--ARREST OF MATERIAL WITNESS. The officer shall, without unnecessary delay, take the person arrested before the nearest and most accessible magistrate to the place where the arrest occurred.

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 unavailable for service of a subpoena. The magistrate may order the person released pursuant to chapter two (2), section one thousand one hundred two (1102) of this Act.

Sec. 410. NEW SECTION. 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.

Sec. 411. NEW SECTION. USE OF FORCE BY PEACE OFFICER MAKING AN ARREST. 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 peace officer is justified in using

deadly force only when he or she reasonably believes that such force is necessary to prevent death or serious injury to any person, or when the peace officer reasonably believes that the person being arrested has committed a felony.

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.

Sec. 412. NEW SECTION. USE OF FORCE IN ARREST BY PRIVATE PERSON. 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 he reasonably believes to be necessary to prevent serious injury to any person.

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.

Sec. 413. NEW SECTION. USE OF FORCE IN RESISTING ARREST. A person is not authorized to use force to resist an arrest, either of himself, herself, 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.

Sec. 414. NEW SECTION. USE OF FORCE IN PREVENTING AN ESCAPE. A peace officer or other person who has an arrested person in his or her custody is justified in the use of such force to prevent the escape of the arrested person from custody as he or she would be justified in using if he or she were arresting such person.

Sec. 415. NEW SECTION. MANNER OF MAKING ARREST. The person making the arrest must inform the person to be arrested of the intention to arrest him or her, the reason for arrest, and that he or she is a peace officer, if such be the case,

and require him or her 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; if acting under the authority of a warrant, the law enforcement officer need not have the warrant in his or her 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 not have the warrant in his or her possession at the time of arrest, the officer shall inform the person being arrested of the fact that a warrant has been issued.

Sec. 416. NEW SECTION. 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 himself or herself as such, demand that he or she 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.

Sec. 417. NEW SECTION. TIME OF ARREST. An arrest may be made on any day and at any time of the day or night.

Sec. 418. NEW SECTION. SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid him or her in making the arrest.

Sec. 419. NEW SECTION. 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 his or her control to be disposed of according to law.

Sec. 420. NEW SECTION. 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; one of which receipts he must deliver to the defendant, and the other he must forthwith file with the clerk of the district court of the county where the depositions and statements are to be sent by the magistrate.

Sec. 421. NEW SECTION. COMMUNICATIONS BY ARRESTED PERSONS. Any peace officer or other person having custody of any person arrested or restrained of his 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 his or her family or an attorney of his or her 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.

Sec. 422. NEW SECTION. INITIAL APPEARANCE BEFORE MAGISTRATE--ARREST BY WARRANT.

1. Any person arrested in obedience to a warrant shall, without unnecessary delay, be taken before the nearest and most accessible magistrate to the place where the arrest occurred and the officer must at the same time deliver to the magistrate the warrant, with the officer's return thereon endorsed and subscribed by the officer with his or her official title.

2. Where the offense be bailable, the magistrate shall fix bail giving due consideration to the bail endorsed on the warrant or other conditions stipulated on the warrant for the defendant's appearance in the court which issued the warrant; if such person is not released on bail, the magistrate must redeliver to the officer the warrant and the officer shall retain custody of the arrested person until his or her

removal to appear before the magistrate who issued the warrant.

3. If the magistrate who issued the warrant is absent or unable to act, the arrested person shall be taken to the nearest and most accessible magistrate in the judicial district where the offense occurred, and all documents on which the warrant was issued must be sent to such magistrate, or if they cannot be procured, the informant and his or her witnesses must be subpoenaed to make new affidavits.

Sec. 423. NEW SECTION. INITIAL APPEARANCE BEFORE MAGISTRATE--ARREST WITHOUT WARRANT. 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, 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:

1. If the magistrate believes from such complaint that the offense charged is triable in his or her court, the magistrate shall proceed with the case.

2. 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 his or her appearance at the other court.

Sec. 424. NEW SECTION. 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.

Sec. 425. NEW SECTION. BAIL--DISCHARGE. Any magistrate or clerk who receives bail as provided for in sections four hundred twenty-two (422), subsection two (2), and four hundred twenty-three (423), subsection two (2), of this division 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.

Sec. 426. NEW SECTION. OFFICER'S RETURN. In all cases, the peace officer, when he or she takes a person committed to the officer under an order as provided in this division before a magistrate or clerk of the district court, either for the purpose of giving bail, if bail be taken, or for trial or preliminary examination, must make his or her return on such order, and sign such return with his or her name of office, and deliver the same to the magistrate or clerk.

Sec. 427. NEW SECTION. 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.

Sec. 428. NEW SECTION. 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 him or her for safekeeping and lodging by any member of the department of public safety.

Sec. 429. NEW SECTION. LEGISLATORS' IMMUNITY FROM ARREST. Senators and representatives in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

DIVISION V

POLICE CITATIONS

Section 501. NEW SECTION. CONDITIONS. Whenever it would be lawful for a peace officer to arrest a person without a warrant, the officer may issue a citation instead of making the arrest and taking the person before a magistrate.

Sec. 502. NEW SECTION. 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.

Sec. 503. NEW SECTION. PROCEDURE. Before he or she is released, the cited person shall sign the citation 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.

Sec. 504. NEW SECTION. 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.

Sec. 505. NEW SECTION. FAILURE TO APPEAR.

1. 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 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 citation attached to the law enforcement agency which issued the original citation for enforcement of the warrant. Upon arrest of the defendant, the warrant and the original citation shall be returned to the court, and the offenses shall be heard and disposed of simultaneously. This subsection shall not apply in any case in which the citation alleges a simple misdemeanor and in which the person cited has submitted bond as provided in subsection two (2) of this section.

2. In the case of a citation which alleges the commission of a simple misdemeanor and in which the person cited has

submitted an appearance bond in the form of cash, check, or guaranteed arrest bond certificate as defined in section three hundred twenty-one point one (321.1) of the Code, the court shall not issue an arrest warrant for failure to appear, but shall order a forfeiture of the bond as provided in subsection four (4) of section one thousand one hundred six (1106) of chapter two (2) of this Act.

DIVISION VI

UNIFORM FRESH PURSUIT LAW

Section 601. NEW SECTION. 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.

Sec. 602. NEW SECTION. PROCEDURE FOLLOWING ARREST. If an arrest is made in this state by an officer of another state in accordance with the provisions of section six hundred one (601) of this division, the officer shall without unnecessary delay take the person arrested before a magistrate of 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.

Sec. 603. NEW SECTION. CONSTRUCTION OF STATUTE. Section six hundred one (601) of this division shall not be construed

so as to make unlawful any arrest in this state which would otherwise be lawful.

Sec. 604. NEW SECTION. OFFICERS FROM DISTRICT OF COLUMBIA. For the purpose of this division the word "state" shall include the District of Columbia.

Sec. 605. NEW SECTION. DEFINITIONS OF TERMS. The term "fresh pursuit" as used in this division 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.

Sec. 606. NEW SECTION. NAME OF ACT. This division may be cited as the "uniform act on fresh pursuit."

DIVISION VII

PROCEEDINGS AGAINST CORPORATIONS

Section 701. NEW SECTION. 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.

Sec. 702. NEW SECTION. 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 (or town) of _____, the _____ day of _____, _____.

G. H. Magistrate"

(or as the case may be.)

Sec. 703. NEW SECTION. 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.

Sec. 704. NEW SECTION. 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.

Sec. 705. NEW SECTION. 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 him or her with his or her 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 (or town) 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.

Sec. 706. NEW SECTION. 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.

Sec. 707. NEW SECTION. 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.

DIVISION VIII

SEARCH AND SEIZURE

Section 801. NEW SECTION. DEFINITIONS. For purposes of this division, unless the context otherwise requires:

1. "Search warrant" means an order in writing, in the name of the state, signed by a magistrate, and directed to a peace officer commanding him or her to search a person, premises, or thing.

2. "Affidavit" means a written declaration or statement of fact made under oath, or legally sufficient affirmation, before any person authorized to administer oaths within or without the state.

Sec. 802. NEW SECTION. 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.

4. For any other property relevant and material as evidence in a criminal prosecution.

Sec. 803. NEW SECTION. APPLICATION FOR SEARCH WARRANTS. Any person may make application for the issuance of a search warrant by submitting before any magistrate a written application, supported by the person's oath or affirmation, and setting forth therein facts, information, and circumstances tending to establish sufficient grounds for granting the application, and probable cause for believing that such grounds exist. The application shall describe the person, place, or thing to be searched and the property to be seized with such specificity so as to enable an independent reasonable man with reasonable effort to ascertain and identify such person, place, or thing. If the magistrate thereafter 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 such warrant together with the abstract of each witness' testimony, or

his or her affidavit. However, if the grounds for issuance is supplied by an informant, the magistrate shall identify only the peace officer to whom the information was given. The magistrate may in his discretion require that any witness upon whom the applicant relies for information to appear personally and be examined concerning such information.

Sec. 804. NEW SECTION. 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 his or her name of office, directed to any authorized person, commanding the person forthwith to search the named person, place, or thing within the state for the property specified, and bring any property seized before the magistrate.

Sec. 805. NEW SECTION. 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.

Sec. 806. NEW SECTION. FORCIBLE EXECUTION. 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.

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.

Sec. 807. NEW SECTION. 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 himself or herself 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 his escape.

Sec. 808. NEW SECTION. 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 his or her return, a complete inventory of the property taken, and state under oath that it is accurate to the best of the officer's knowledge. The magistrate 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.

Sec. 809. NEW SECTION. SAFE-KEEPING 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 two (2), division nine (IX) of this Act.

Sec. 810. NEW SECTION. 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 his or her authority, or exercises it with unnecessary severity, is guilty of a serious misdemeanor.

Sec. 811. NEW SECTION. TRANSMISSION OF PAPERS TO DISTRICT COURT CLERK. The magistrate who has issued a search warrant shall attach to the warrant a copy of the return, inventory and all other papers in connection therewith and shall file them with the clerk of the district court for the county in which the property was seized.

Sec. 812. NEW SECTION. DETENTION AND SEARCH IN SHOPLIFTING.

1. Persons concealing property as set forth in chapter one (1), section one thousand four hundred five (1405) of this Act, may be detained and searched by a peace officer, 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 two (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, merchant, or merchant's employee shall not render such peace officer, merchant, or merchant's employee liable, in a criminal or civil action, for false arrest or false imprisonment provided the peace officer, merchant, or merchant's employee had reasonable grounds to believe the person detained or searched had concealed or was attempting to conceal property as set forth in chapter one (1), section one thousand four hundred five (1405) of this Act.

DIVISION IX

DISPOSITION OF SEIZED PROPERTY

Section 901. NEW SECTION. SEIZED PROPERTY. For the purposes of this division, "seized property" means all property

or any part thereof seized in the execution of a search warrant, arrest warrant, or arrest without warrant; and includes the following:

1. Property which has been obtained in violation of law.

2. Property, the possession of which is unlawful.

3. Property used or possessed with the intent to be used as the means of committing a public offense or concealed to prevent the offense from being discovered.

4. Property subject to forfeiture except such property described in chapters one hundred twenty-seven (127) and two hundred four (204), Code 1975.

5. Other property relevant and material as evidence in a criminal prosecution.

Sec. 902. NEW SECTION. NOTICE OF HEARING. The clerk of court shall issue a notice of a hearing, containing a reasonable description of the property and the time, place, and cause of its seizure, within forty-eight hours of the time of its seizure. Such notice shall be reasonably calculated to apprise affected persons of the pendency of the hearing.

Sec. 903. NEW SECTION. CLAIMANT. Any person claiming the right to possession of seized property may make application for its return in the office of the clerk of court for the county in which it was seized.

Sec. 904. NEW SECTION. HEARING. All claims made for the return of the seized property shall be set for hearing and such hearing shall be held not less than five nor more than thirty days after the filing of the first claim.

Sec. 905. NEW SECTION. RETURN.

1. Property not required for evidence or use in further investigation may be returned by the officer to the person from whom it was seized without the requirement of a hearing, providing that that person's right of possession is not prohibited by law.

2. In the event that the finding of the right to possess is in favor of a claimant, other than the state, the magistrate shall order the return of the property, providing that:

a. Possession of such property by the claimant is not prohibited by law; and

b. The property is not needed as evidence in any judicial proceedings; or, if needed, satisfactory arrangements have been made for its return for subsequent use as evidence. If such proceedings have not been completed, the magistrate shall make satisfactory arrangements for return of the property upon their completion.

Sec. 906. NEW SECTION. OTHER DISPOSITION.

1. FORFEITURE. Unless otherwise specified by law, the magistrate shall order the immediate destruction of all forfeited property of an illegal nature or character. When the forfeited property is not of an illegal nature or character, the magistrate shall order all such property or the proceeds of its sale to be applied to the court fund of the county.

2. NO CLAIMANT. Where there is no claimant or where the right to possession cannot be determined, nonperishable property shall be held for a period of six months from the date of filing of the return, pending claim. Thereafter, the magistrate or other officer having the property in his or her custody shall, on payment of the necessary expenses incurred for its preservation, deliver it to the treasurer of the county, to be credited to the court fund.

Sec. 907. NEW SECTION. APPEAL. When the judgment of rightful possession or of forfeiture is not made by a district judge, appeal to a district judge may be made in the manner of other appeals from judgments of judicial magistrates. Such appeal shall be filed with the magistrate within two days of the judgment. The appellant, other than the state, shall post a bond in such a reasonable sum as the magistrate may fix and approve, conditioned to pay all costs of the proceedings in case the appellant is unsuccessful on appeal.

DIVISION X

LINEUPS AND NONTESTIMONIAL IDENTIFICATION

Section 1001. NEW SECTION. DEFINITION. As used in this division, 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.

Sec. 1002. NEW SECTION. 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.

DIVISION XI

BAIL

Section 1101. NEW SECTION. BAILABLE AND NONBAILABLE OFFENSES. 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 a defendant convicted of a class A felony shall not be admitted to bail while appealing such conviction or seeking post-conviction relief.

Sec. 1102. NEW SECTION. RELEASE OF DEFENDANTS--CONDITIONS OF BAIL BOND.

1. CONDITIONS FOR RELEASE OF DEFENDANT. All bailable defendants shall be ordered released from custody pending judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of his or her discretion, that such a release will not reasonably assure the appearance of the defendant as required. 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 which will reasonably assure the appearance of the person for trial or, if no single condition gives that

assurance, any combination of the following conditions:

a. Place the defendant in the custody of a designated person or organization agreeing to supervise the defendant.

b. Place restrictions on the travel, association or place of abode of the defendant during the period of release.

c. Require the execution of an appearance bond in a specified amount and the deposit with the clerk of court in cash or other qualified security of a sum not to exceed ten percent of the amount of the bond, such deposit to be returned to the defendant upon the performance of the appearances as required in section one thousand one hundred six (1106) of this division.

d. Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu thereof, provided that, except as provided in section one thousand one hundred one (1101) of this division, bail initially given shall remain valid until final disposition of the offense. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase thereof and the defendant must provide the additional undertaking, written or cash, to secure his or her release.

e. Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the defendant return to custody after specified hours.

2. DETERMINATION OF CONDITIONS. In determining which conditions of release will reasonably assure appearance, 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 his or her residence in the community, the defendant's record of convictions, and the defendant's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

3. STATEMENT TO ALL DEFENDANTS. When a defendant appears before a magistrate pursuant to rule two (2) or rule three

(3), rules of criminal procedure, the defendant shall be informed of the defendant's right to have said conditions of release reviewed. If the defendant indicates he or she 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.

4. 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 his or her release and shall advise the defendant that a warrant for the defendant's arrest will be issued immediately upon such violation.

5. AMENDMENT OF RELEASE CONDITIONS. A magistrate ordering the release of the defendant on any conditions specified in this section may at any time amend his or her 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 three (3) of this section shall apply.

6. 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 subsections three (3) or five (5) of this section, by a magistrate, other than a district court judge or district associate judge having original jurisdiction of the offense with which he is charged, may make application to a district court 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 to the supreme court. The appeal shall be determined summarily without briefs on the record 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 supreme 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 one (1) of this section.

7. 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 he or she 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.

Sec. 1103. NEW SECTION. QUALIFICATION AND EXAMINATION OF SURETY.

1. Insurance companies doing business in this state under the provisions of section five hundred fifteen point forty-eight (515.48), subsection two (2) of the Code, may act as surety. Resident property owners within the state, 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.

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.

Sec. 1104. NEW SECTION. 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.

Sec. 1105. NEW SECTION. BAIL ON APPEAL. After conviction, upon appeal to the supreme 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 supreme court upon appeal; if from a judgment of imprisonment, except as provided in section one thousand one hundred one (1101) of this division upon the undertaking of bail that the defendant will surrender himself or herself in execution of the judgment and direction of the supreme court, and in all respects abide the orders and judgment of the supreme 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 supreme 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 one thousand one hundred two (1102) of this division.

Sec. 1106. NEW SECTION. FORFEITURE OF BAIL.

1. A defendant released pursuant to this division 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 his or her personal appearance is lawfully required, or to surrender himself or herself in execution of the judgment, the court must direct an entry of such 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 such entry, except as provided in rule forty-three (43), rules of criminal procedure, the court shall direct the sheriff of the county to give ten days' notice in writing to the defendant and his or her sureties to appear and show cause, if any, why judgment should not be entered for the amount of such bail. If such appearance is not made, judgment shall be entered by the

court. If such 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 same as funds of his or her office for a period of sixty days from the date of judgment.

3. The court may, upon application, set aside such judgment if, within sixty days from the date thereof, the defendant shall voluntarily surrender himself or herself to the sheriff of the county, or his or her bondsmen shall, at their own expense, deliver the defendant to the custody of the sheriff. Such judgment shall not be set aside, however, unless a condition precedent thereto, the defendant and the defendant's sureties shall have paid all costs and expenses incurred in connection therewith.

4. The provisions of subsections one (1), two (2) and three (3) of this section shall not apply to a case in which a simple misdemeanor is charged by police citation pursuant to section five hundred five (505) of chapter two (2) of this Act or by uniform citation and complaint pursuant to section seven hundred fifty-three point fifteen (753.15) of the Code, and in which the defendant has submitted appearance bond in the form of cash, check, or guaranteed arrest bond certificate as defined in section three hundred twenty-one point one (321.1) of the Code. Where a defendant fails to appear as required in such a case, the court shall enter a judgment of forfeiture of the bond which shall be final upon entry and shall not be set aside.

Sec. 1107. NEW SECTION. 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 division, 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 recite, 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.

Sec. 1108. NEW SECTION. SURRENDER OF DEFENDANT.

1. At any time before the forfeiture of the defendant's undertaking, the bail may surrender the defendant, or the defendant may surrender himself or herself, 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.

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 bondsmen.

3. For the purpose of surrendering the defendant, the bail, at any time before finally charged and at any place within the state, may arrest the defendant, or, by a written authority endorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

DIVISION XII

CONFINEMENT OF MENTALLY ILL OR DANGEROUS PERSONS

Subdivision I

DETENTION AFTER CONVICTION

Section 1201. NEW SECTION. WHEN DETENTION ALLOWED. When a person is awaiting sentence after conviction of a felony or following sentence of confinement is pursuing an appeal in such case, and the person would be otherwise eligible for release under division eleven (XI) of this chapter, but it appears by clear and convincing evidence that if released the person is likely to pose a danger to another person or to the property of others, such person may be detained under the authority of this division.

Sec. 1202. NEW SECTION. HEARING. The following procedures shall apply to detention hearings held pursuant to this subdivision:

1. The prosecuting attorney may initiate a detention hearing by ex parte written motion. Upon such motion, the district court may issue a warrant for the arrest of the person, if the person is not in custody.

2. The detention hearing shall be held immediately upon the person being brought before the district court for such hearing unless the person or the prosecuting attorney moves for a continuance. A continuance granted on motion of the person shall not exceed three calendar days. A continuance on motion of the prosecuting attorney shall be granted only upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

3. The person shall be entitled to representation by counsel, including appointed counsel for indigent persons, and shall be entitled to the right of cross-examination and to present information, to testify, and to present witnesses in his own behalf.

4. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the formal rules of evidence.

5. Testimony of the person given during the hearing shall

not be admissible on the issue of guilt in any other judicial proceeding, subject only to the following exceptions: Such testimony shall be admissible in proceedings under sections one thousand one hundred two (1102), subsection seven (7) and one thousand one hundred eight (1108) of this chapter, and in perjury proceedings.

6. Unless the defendant otherwise requests in writing, the district court shall conduct the hearing as a private hearing, and any order entered shall remain confidential as to the public generally until the conclusion of the trial.

7. Appeals from orders of detention may be taken in the manner provided under section one thousand one hundred two (1102), subsection six (6) of this chapter.

8. If the trial court issues an order of detention, it shall be accompanied by a written finding of fact and the reasons for the detention order.

9. For the purposes of such proceedings, the trial court is not divested of jurisdiction by the filing of a notice of appeal.

Subdivision II

MENTAL INCOMPETENCY OF ACCUSED TO STAND TRIAL

Section 1203. NEW SECTION. MENTAL INCOMPETENCY OF ACCUSED. If at any stage of a criminal proceeding it reasonably appears that the defendant is suffering from a mental disorder which prevents him from appreciating the charge against him, understanding the proceedings, or assisting effectively in his defense, further proceedings must be suspended and a hearing had upon that question.

Sec. 1204. NEW SECTION. CESSATION OF CRIMINAL PROSECUTION. If, upon hearing conducted by the court, the accused is found to be incapacitated in the manner described in section one thousand two hundred three (1203) of this division, no further proceedings shall be taken under the complaint or indictment until the accused's capacity is restored, and, if his or her release will endanger the public peace or safety, the court must order him or her committed to the custody of the department of social services.

Sec. 1205. NEW SECTION. EFFECT OF RESTORATION OF MENTAL CAPACITY. If the accused is committed to the department of social services, after the expiration of a period not to exceed six months, the court shall upon hearing review the confinement and determine whether there is a substantial probability the prisoner will regain capacity within a reasonable time. If not, the state shall be directed to institute civil commitment proceedings. When it thereafter appears that the accused can effectively assist in his or her defense, that department shall give notice to the sheriff and county attorney of the proper county of such fact, and the sheriff, without delay, must receive and hold the accused in custody until he or she is brought to trial or judgment, as the case may be, or is legally discharged, the expense for conveying and returning the accused, or any other, to be paid in the first instance by the county from which the accused is sent, but such county may recover the same from another county or municipal body bound to provide for or maintain the accused elsewhere, and the sheriff shall be allowed for his or her services the same fees as are allowed for conveying convicts to the penitentiary.

DIVISION XIII

IOWA RULES OF CRIMINAL PROCEDURE

Section 1301. NEW SECTION. PROVISIONS RELATING TO HEARING AND TRIAL IN INDICTABLE CASES.

Rule 1. SCOPE OF RULES AND DEFINITIONS.

1. SCOPE. The rules in this section provide procedures for indictable criminal cases.

2. DEFINITIONS.

a. "Committing magistrate" means judicial magistrates, district associate judges, and district judges.

b. "Judicial officer" means justices of the supreme court and committing magistrates.

c. "Unnecessary delay" is any unexcused delay longer than twenty-four hours, and consists of a shorter period whenever a magistrate is accessible and available.

Rule 2. PROCEEDINGS BEFORE THE MAGISTRATE.

1. INITIAL APPEARANCE OF DEFENDANT. An officer making an arrest with or without a warrant shall take the arrested person without unnecessary delay before a committing magistrate as provided by law. When a person arrested without a warrant is brought before a magistrate, a complaint shall be filed forthwith. If the defendant received a citation or was arrested without a warrant, the magistrate shall, prior to further proceedings in the case, make an initial, preliminary determination from the complaint, or from an affidavit or affidavits filed with the complaint or from an oral statement under oath or affirmation from the arresting officer or other person, whether there is probable cause to believe that an offense has been committed and that the defendant has committed it. The magistrate's decision in this regard shall be entered in the magistrate's record of the case.

2. STATEMENT BY THE MAGISTRATE. The magistrate shall inform a defendant who appears before the magistrate after arrest, complaint, summons, or citation of the complaint against the defendant, of the defendant's right to retain counsel, of the defendant's right to request the assignment of counsel if the defendant is unable to obtain counsel, of the general circumstances under which the defendant may secure pretrial release, of the defendant's right to review of any conditions imposed on the defendant's release and shall provide the defendant with a copy of the complaint. The magistrate shall also inform the defendant that he or she is not required to make a statement and that any statement made by the defendant may be used against him or her. The magistrate shall allow the defendant reasonable time and opportunity to consult counsel.

3. COUNSEL. From a list approved by the district court judge, the magistrate shall have authority to appoint counsel to represent the defendant in the event the defendant requests representation by counsel and is entitled to same. Counsel will be assigned to assist the defendant only upon a showing as required in section three hundred thirty-six A point four (336A.4) of the Code. Counsel so appointed may make

application in the district court for compensation for such services.

4. PRELIMINARY HEARING. The defendant shall not be called upon to plead and the magistrate shall proceed as follows:

a. PRELIMINARY HEARING. The magistrate shall inform the defendant that he or she is entitled to a preliminary hearing unless the defendant is indicted by a grand jury or a true information is filed against the defendant or unless he or she waives the preliminary hearing. If the defendant waives preliminary hearing, the magistrate shall order the defendant held to answer in further proceedings. If the defendant does not waive the preliminary hearing, the magistrate shall schedule a preliminary hearing and inform the defendant of the date of the preliminary hearing. Such hearing shall be held within a reasonable time but in any event not later than ten days following the initial appearance if the defendant is in custody and no later than twenty days if he or she is not in custody. Upon showing of good cause, the time limits specified in this paragraph may be extended by the magistrate.

b. PROBABLE CAUSE FINDING. If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the defendant committed it, the magistrate shall order the defendant held to answer in further proceedings. The finding of probable cause shall be based upon substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished. The defendant may cross-examine witnesses against him or her and may introduce evidence in his or her own behalf.

c. CONSTITUTIONAL OBJECTIONS. Rules excluding evidence on the ground that it was acquired by unlawful means are not applicable. Motions to suppress must be made to the trial court as provided in rule eleven (11).

d. PRIVATE HEARING. The magistrate must also, upon request of the defendant, exclude from the hearing all persons except the magistrate, the magistrate's clerk, the peace officer

who has custody of the defendant, a court reporter, the attorney or attorneys representing the state, a peace officer selected by the attorney representing the state, the defendant and the defendant's counsel.

e. DISCHARGE OF DEFENDANT. If from the evidence it appears that there is no probable cause to believe that an offense has been committed or that the defendant committed it, the magistrate shall dismiss the complaint and discharge the defendant. The discharge of the defendant shall not preclude the government from instituting a subsequent prosecution for the same offense.

f. TRANSMISSION OF MAGISTRATE'S RECORD ENTRIES. After concluding the proceedings the magistrate shall transmit forthwith to the clerk of the district court all papers and recordings in the proceeding.

g. PRELIMINARY HEARING TESTIMONY PRESERVED BY STENOGRAPHER OR TAPE RECORDER: PRODUCTION PRIOR TO TRIAL. Proceedings at the preliminary hearing shall be taken down by a court reporter or recording equipment and shall be made available on the following basis:

(1) On timely application to a magistrate, for good cause shown, and subject to the availability of facilities, the attorney for a defendant in a criminal case may be given the opportunity to have the recorded tape of the hearing on preliminary examination replayed for his or her information in connection with any further hearing or in connection with his or her preparation for trial.

(2) On application of a defendant addressed to a district judge, showing that the record of preliminary hearing, in whole or in part, should be made available to the defendant's counsel, an order may issue that the clerk make available a copy of the record, or of a portion thereof, to defense counsel. Such order shall provide for prepayment of costs of such record by the defendant unless the defendant makes a sufficient affidavit that he or she is unable to pay or to give security therefor, in which case the expense shall be paid by the county. The prosecution may move also that

a copy of the record, in whole or in part, be made available to it, for good cause shown, and an order may be entered granting such motion in whole or in part, on appropriate terms, except that the government need not prepay costs nor furnish security therefor.

(3) The copy of the record of such proceedings furnished pursuant to subparagraph two (2) of this paragraph may consist of a tape of the recorded proceedings or a stenographic transcript of the proceedings.

If the record is ordered, the court shall specify in its order to the magistrate an appropriate method of making the record available. If, in any circumstance, a typewritten transcript is furnished counsel, a copy thereof shall be filed with the clerk of court.

Rule 3. THE GRAND JURY.

1. DRAWING GRAND JURORS. At such times as prescribed by the chief judge of the district court in the public interest, the names of the twelve persons constituting the panel of the grand jury shall be placed by the clerk in a container, and after thoroughly mixing the same, in open court the clerk shall draw therefrom seven names, and the persons so drawn shall constitute the grand jury. Should any of the persons so drawn be excused by the court or fail to attend on the day designated for their appearance, the clerk shall draw additional names until the seven grand jurors are secured.

If the panel is insufficient to provide and maintain a grand jury of seven members, the panel shall be refilled from the jury box by the clerk of the court under direction of the court; additional grand jurors shall be selected until a grand jury of seven grand jurors is secured, and they shall be summoned in the manner as those originally drawn.

2. CHALLENGE TO GRAND JURY.

a. CHALLENGE TO ARRAY. A defendant held to answer for a public offense may, before the grand jury is sworn, challenge the panel or the grand jury, only for the reason that it was not composed or drawn as prescribed by law. If the challenge be sustained, the court shall thereupon proceed to take

remedial action to compose a proper grand jury panel or grand jury.

b. CHALLENGE TO INDIVIDUAL JURORS. A challenge to an individual grand juror may be made before the grand jury is sworn as follows:

(1) By the state or the defendant, because the grand juror does not possess the qualifications required by law.

(2) By the state only because:

(a) The juror is related either by affinity or consanguinity nearer than in the fifth degree, or stands in the relation of agent, clerk, servant, or employee, to any person held to answer for a public offense, whose case may come before the grand jury.

(b) The juror is bail for anyone held to answer for a public offense, whose case may come before the grand jury.

(c) The juror is defendant in a prosecution similar to any prosecution to be examined by the grand jury.

(d) The juror is, or within one year preceding has been, engaged or interested in carrying on any business, calling, or employment the carrying on of which is a violation of law, and for which the juror may be indicted by the grand jury.

(3) By the defendant only because:

(a) The juror is a prosecutor upon a charge against the defendant.

(b) The juror has formed or expressed such an opinion as to the guilt or innocence of the defendant as would prevent the juror from rendering a true verdict upon the evidence submitted.

c. DECISION BY COURT. Challenges to the panel or to an individual grand juror shall be decided by the court.

d. MOTION TO DISMISS. A motion to dismiss the indictment may be based on challenges to the array or to an individual juror, if the grounds for challenge which are alleged in the motion of the defendant have not previously been determined pursuant to a challenge asserted by the defendant pursuant to paragraph a or paragraph b of this subsection.

3. DISCHARGING AND SUMMONING JURORS.

a. DISCHARGE. A grand jury, on the completion of its business, shall be discharged by the court. The grand jury shall serve until discharged by the court, and the regular term of service by a grand juror should not exceed one calendar year. However, when an investigation which has been undertaken by the grand jury is incomplete, the court may by order extend the eligibility of a grand juror beyond one year, to the completion of the investigation.

b. SUMMONING JURORS. Upon order of the court the clerk shall issue his precept or precepts to the sheriff, commanding the sheriff to summon the grand juror or jurors. Upon a failure of a grand juror to obey such summons without sufficient cause, he may be punished for contempt.

c. EXCUSING JURORS. If the court excuses a juror, the court may impanel another person in place of the juror excused. If the grand jury has been reduced to a less number than seven by reason of challenges to individual jurors being allowed, or from any other cause, the additional jurors required to fill the panel shall be summoned, first, from such of the twelve jurors originally summoned which were not drawn on the grand jury as first impaneled, and if they are exhausted the additional number required shall be drawn from the grand jury list. If a challenge to the array is allowed, a new grand jury shall be impaneled to inquire into the charge against the defendant in whose behalf the challenge to the array has been allowed, and they shall be summoned in the manner prescribed in this rule.

4. OATHS AND PROCEDURE.

a. FOREMAN. From the persons impaneled as grand jurors the court shall appoint a foreman, or when the foreman already appointed is discharged, excused, or from any cause becomes unable to act before the grand jury is finally discharged, an acting foreman may be appointed.

The foreman of the grand jury may administer the oath to all witnesses produced and examined before it.

b. CLERKS AND BAILIFFS. The court may appoint as clerk of the grand jury a competent person who is not a member

thereof. In addition thereto the court may, if it deems it necessary, appoint assistant clerks of the grand jury. If no such appointments are made by the court, the grand jury shall appoint as its clerk one of its own number who is not its foreman. In like manner the court may appoint bailiffs for the grand jury to serve with the powers of a peace officer while so acting.

c. OATHS ADMINISTERED TO GRAND JURY, CLERK, AND BAILIFF. The following oath shall be administered to the grand jury: "Do each of you, as the grand jury, solemnly swear or affirm that you will diligently inquire and true presentment make of all public offenses against the people of this state, triable on indictment within this county, of which you have or can obtain legal evidence; you shall present no person through malice, hatred, or ill will, nor leave any unpresented through fear, favor, or affection, or for any reward, or the promise or hope thereof, but in all your presentments that you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding?"

Any clerk, assistant clerk, or bailiff appointed by the court must be given the following oath: "Do you solemnly swear that you will faithfully and impartially perform the duties of your office, that you will not reveal to anyone its proceedings or the testimony given before it and will abstain from expressing any opinion upon any question before it, to or in the presence or hearing of the grand jury or any member thereof?"

d. SECRECY OF PROCEEDINGS. Every member of the grand jury, and its clerks and bailiffs, shall keep secret the proceedings of that body and the testimony given before it, except as provided in rule thirteen (13). No such person shall disclose the fact that an indictment has been found except when necessary for the issuance and execution of a warrant or summons, and such duty of nondisclosure shall continue until the indicted person has been arrested. The county attorney shall be allowed to appear before the grand

jury on his or her own request for the purpose of giving information or for the purpose of examining witnesses, and the grand jury may at all reasonable times ask the advice of the county attorney or the court. However, neither the county attorney nor any other officer or person except the grand jury may be present when the grand jury is voting upon the finding of an indictment.

e. SECURING WITNESSES AND RECORDS. The clerk of the court must, when required by the foreman of the grand jury or county attorney, issue subpoenas for witnesses to appear before the grand jury. The grand jury is entitled to free access at all reasonable times to county institutions and places of confinement, and to the examination without charge of all public records within the county.

f. MINUTES. The clerk of the grand jury shall take and preserve minutes of the proceedings and of the evidence given before it, except the votes of its individual members on finding an indictment.

g. EVIDENCE FOR DEFENDANT. The grand jury is not bound to hear evidence for the defendant, but may do so, and must weigh all the evidence submitted to it, and when it has reason to believe that other evidence within its reach will explain away the charge, it may order the same produced.

h. REFUSAL OF WITNESS TO TESTIFY. When a witness under examination before the grand jury refuses to testify or to answer a question put to him or her, it shall proceed with the witness before a district court judge, and the foreman shall then distinctly state before a district court judge the question and the refusal of the witness, and if upon hearing the witness the court shall decide that the witness is bound to testify or answer the question propounded, the judge shall inquire of the witness if he or she persists in his or her refusal, and, if he does, shall proceed with the witness as in cases of similar refusal in open court.

i. EFFECT OF REFUSAL TO INDICT. If, upon investigation, the grand jury refuses to find an indictment against one charged with a public offense, it shall return all papers

to the clerk, with an endorsement thereon, signed by the foreman, to the effect that the charge is ignored. Thereupon the district court judge must order the discharge of the defendant from custody if in jail, and the exoneration of bail if bail be given. Upon good cause shown, the district court judge may direct that the charge again be submitted to the grand jury. Such ignoring of the charge does not prevent the cause from being submitted to another grand jury as the court may direct; but without such direction it cannot be again submitted.

j. DUTY OF GRAND JURY. The grand jury shall inquire into all indictable offenses which may be tried within the county, and present them to the court by indictment. The grand jury shall meet at times specified by order of a district judge. In addition to those times, the grand jury shall meet at the request of the county attorney or upon the request of a majority of the grand jurors.

It is made the special duty of the grand jury to inquire into:

(1) The case of every person imprisoned in the detention facilities of the county on a criminal charge and not indicted.

(2) The condition and management of the public prisons, county institutions and places of detention within the county.

(3) The unlawful misconduct in office in the county of public officers and employees.

Rule 4. INDICTMENT.

1. DEFINED. An indictment is an accusation in writing, found and presented by a grand jury legally impaneled and sworn to the court in which it is impaneled, charging that the person named therein has committed an indictable public offense, punishable on indictment.

2. USE OF INDICTMENT. Criminal offenses in which the punishment exceeds a fine of one hundred dollars or exceeds imprisonment for thirty days may be prosecuted to final judgment either on indictment or on information as provided in rule five (5).

3. EVIDENCE TO SUPPORT. An indictment should be found

when all the evidence, taken together, is such as in the judgment of the grand jury, if unexplained, would warrant a conviction by the trial jury; otherwise it should not. An indictment can be found only upon evidence given by witnesses produced, sworn, and examined before the grand jury, or furnished by legal documentary evidence, or upon the stenographic or taped record of evidence given by witnesses before a committing magistrate. If an indictment is found in whole or in part upon testimony taken before a committing magistrate, the clerk of the grand jury shall write out a brief minute of the substance of such evidence, and the same shall be returned to the court with the indictment.

4. VOTE NECESSARY. An indictment cannot be found without the concurrence of five grand jurors. Every indictment must be endorsed "a true bill" and the endorsement signed by the foreman of the grand jury.

5. PRESENTATION AND FILING. An indictment, when found by the grand jury and properly endorsed, shall be presented to the court with the minutes of evidence of the witnesses relied on. The presentation shall be made by the foreman of the grand jury in the presence of the members of the grand jury. The indictment, minutes of evidence, and all exhibits relating thereto shall be transmitted to the clerk of the court and filed by the clerk.

6. MINUTES.

a. A minute of evidence shall consist of a notice in writing stating the name, place of residence, and occupation of the witness upon whose testimony the indictment is found, and a full and fair statement of the witness' testimony before the grand jury.

b. COPY TO DEFENSE. Such minutes of evidence shall not be open for the inspection of any person except the judge of the court, the county attorney, or the defendant and his or her counsel. The clerk of the court must, on demand made, furnish the defendant or his or her counsel a copy thereof without charge.

c. MINUTES USED AGAIN. A grand jury may consider minutes

of testimony previously heard by the same or another grand jury. In any case, a grand jury may take additional testimony.

7. CONTENTS OF INDICTMENT. An indictment is a plain, concise, and definite statement of the offense charged. The indictment shall be signed by the foreman of the grand jury. The names of all witnesses on whose evidence the indictment is found must be endorsed thereon. The indictment may be in the general indictment form set forth in the illustrative table of forms appended to the Iowa rules of criminal procedure. The indictment shall include the following:

a. The name of the accused, if known, and if not known, designation of the accused by any name by which the accused may be identified.

b. The name and if provided by law the degree of the offense, identifying by number the statutory provision or provisions alleged to have been violated.

c. The time and place of the offense as definitely as can be done.

d. Where the means by which the offense is committed are necessary to charge an offense, a brief statement of the acts or omissions by which the offense is alleged to have been committed.

No indictment is invalid or insufficient, nor can the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in a matter of form which does not prejudice a substantial right of the defendant.

8. AMENDMENT.

a. GENERALLY. The court may, on motion of the state, and before or during the trial, order the indictment amended so as to correct errors or omissions in matters of form or substance. Amendment may be allowed before or during trial when no substantial rights of the defendant are prejudiced by the amendment, and if a wholly new and different offense is not charged.

b. AMENDMENT BEFORE TRIAL. If the application for an amendment be made before the commencement of the trial, the application and a copy of the proposed amendment shall be

served upon the defendant, or upon the defendant's attorney of record, and an opportunity given the defendant to resist the same.

c. AMENDMENT DURING TRIAL. If the application be made during the trial, the application and the amendment may be dictated into the record in the presence of the defendant and the defendant's counsel, and such record shall constitute sufficient notice to the defendant.

d. CONTINUANCE. No continuance or delay in trial shall be granted because of such amendment unless it appears that defendant should have additional time to prepare because of such amendment.

e. AMENDMENT OF MINUTES. Minutes may be amended in the same manner and to the same extent that an indictment may be amended.

Rule 5. INFORMATION.

1. PROSECUTION ON INFORMATION. All indictable offenses may be prosecuted by a trial information. The prosecuting attorney may at any time, whether or not the grand jury is in session, file an information with a district court judge or district associate judge charging a person with an indictable offense.

2. ENDORSEMENT. An information shall be endorsed "a true information" and shall be signed by the prosecuting attorney or in his or her name by an assistant prosecuting attorney.

3. WITNESS NAMES AND MINUTES. The prosecuting attorney shall, at the time of filing such information, endorse or cause to be endorsed thereon the names, occupations, and last known addresses of the witnesses whose evidence the prosecuting attorney expects to introduce and use on the trial of the same, and shall also file with such information, of each witness whose name is endorsed upon the information, a statement sufficient to enable the defendant to prepare his defense.

4. APPROVAL BY JUDGE. Prior to the filing of the information, a district judge or district associate judge having jurisdiction of the offense must approve the information

by a finding that the evidence contained in the information and the minutes of testimony, if unexplained, would warrant a conviction by the trial jury. If not approved, the charge may be presented to the grand jury for consideration. At any time after judicial approval of an information, and prior to the commencement of trail, the court, on its own motion, may order said information set aside and said case submitted to the grand jury.

5. INDICTMENT RULES APPLICABLE. The information shall be drawn and construed, in matters of substance, as indictments are required to be drawn and construed. The term "indictment" embraces the trial information, and all provisions of law applying to prosecutions on indictments apply also to informations, except where otherwise provided for in these rules, or when the context requires otherwise.

6. INVESTIGATION BY PROSECUTING ATTORNEY. The clerk of the district court, on written application of the prosecuting attorney and the approval of the court, shall issue subpoenas including subpoenas duces tecum for such witnesses as the prosecuting attorney may require in investigating an offense, and in such subpoenas shall direct the appearance of said witnesses before the prosecuting attorney at a specified time and place. Such application and judicial order of approval shall be maintained by the clerk in a confidential file until a charge is filed, in which event disclosure shall be made, unless the court in an in camera hearing orders that it be kept confidential. The prosecuting attorney shall have the authority to administer oaths to said witnesses and shall have the services of the clerk of the grand jury in those counties in which such clerk is regularly employed. The rights and responsibilities of such witnesses and any penalties for violations thereof shall otherwise be the same as a witness subpoenaed to the grand jury.

Rule 6. PLEADING SPECIAL MATTERS IN INDICTMENTS AND INFORMATIONS--MULTIPLE OFFENSES OR DEFENDANTS; PLEADING PRIOR CONVICTIONS; PLEADING STATUTES.

1. MULTIPLE OFFENSES. When the conduct of a defendant

may establish the commission of more than one public offense arising out of the same transaction or occurrence, the defendant may be prosecuted for each of such offenses. Each of such offenses may be alleged and prosecuted as separate counts in a single complaint, information or indictment. Where the public offense which is alleged carries with it certain lesser included offenses, the latter should not be charged, and it is sufficient to charge that the accused committed the public offense.

2. PROSECUTION AND JUDGMENT. Upon prosecution for a crime, the defendant may be convicted of either the crime charged or an included crime, but not both.

3. DUTY OF COURT TO INSTRUCT. In cases where the crime charged may include some lesser crime it is the duty of the trial court to instruct the jury, not only as to the crime charged but as to all lesser crimes of which the accused might be found guilty under the indictment and upon the evidence adduced, even though such instructions have not been requested or have been objected to.

4. CHARGING MULTIPLE DEFENDANTS.

a. MULTIPLE DEFENDANTS. Two or more defendants may be charged in the same indictment, information, or complaint if they are alleged to have participated in the same act or the same transaction or occurrence out of which the offense or offenses arose. Such defendants may be charged in one or more counts together or separately, and all the defendants need not be charged in each count.

b. PROSECUTION AND JUDGMENT. When an indictment charges a defendant with a felony, and the same indictment charges two or more defendants, those defendants jointly charged may be tried jointly, if in the discretion of the court a joint trial will not result in prejudice to one or more of the parties; otherwise the defendants shall be tried separately. Where jointly tried, each defendant shall be judged separately on each count.

5. ALLEGATIONS OF PRIOR CONVICTIONS. If the offense charged is one for which the defendant, if convicted, will

be subject by reason of the Code, to an increased penalty because of prior convictions, the allegation of such convictions, if any, shall be contained in the indictment. A supplemental indictment shall be prepared for the purpose of trial of the facts of the current offense only, and shall satisfy all pertinent requirements of the Code, except that it shall make no mention, directly or indirectly, of the allegation of the prior convictions, and shall be the only indictment read or otherwise presented to the jury prior to conviction of the current offense. The effect of this subdivision shall be to alter the procedure for trying, in one criminal proceeding, the offenses appropriate to its provisions, and not to alter in any manner the basic elements of an offense as provided by law.

6. PLEADING STATUTES. A pleading asserting any statute of another state, territory or jurisdiction of the United States, or a right derived therefrom, shall refer to such statute by plain designation and if such reference is made, the court shall judicially notice such statute.

Rule 7. PROCEEDINGS AFTER INDICTMENT OR INFORMATION.

1. ISSUANCE. Upon the request of the prosecuting attorney the court shall issue a warrant for each defendant named in the indictment or information. The clerk shall issue a summons instead of a warrant upon the request of the prosecuting attorney or by direction of the court. The warrant or summons shall be delivered to a person authorized by law to execute or serve it. If a defendant fails to appear in response to the summons, a warrant shall issue.

2. FORM.

a. WARRANT. The warrant shall be signed by the judge or clerk; it shall describe the offense charged in the indictment; and it shall command that the defendant shall be arrested and brought before the court. The amount of bail may be fixed by the court and endorsed on the warrant. The warrant may be substantially in the form described in the table of forms to the Iowa rules of criminal procedure. The warrant may be served in any county in the state.

b. SUMMONS. The summons shall be in the form described in section four hundred two (402) of this chapter, except that it shall be signed by the clerk.

3. EXECUTION, SERVICE, AND RETURN.

a. EXECUTION OR SERVICE. The warrant shall be executed or the summons served as provided in division four (IV) of this chapter. A summons to a corporation shall be in the form prescribed in section seven hundred five (705) of this chapter. Upon the return of an indictment or upon the filing of trial information against a person confined in any penal institution, the court to which such indictment is returned may enter an order directing that such person be produced before it for trial. The sheriff shall execute such order by serving a copy thereof on the warden having such accused person in custody and thereupon such person shall be delivered to such sheriff and conveyed to the place of trial.

b. RETURN. The officer executing a warrant, or the person to whom a summons was delivered for service shall make return thereof to the court.

Rule 8. ARRAIGNMENT AND PLEA.

1. CONDUCT OF ARRAIGNMENT. Arraignment shall be conducted in open court without unnecessary delay. If the defendant appears for arraignment without counsel, the defendant must, before proceeding therewith, be informed by the court of his or her right thereto, and be asked if he or she desires counsel; and if he or she does, and is unable to employ any, the court must assign the defendant counsel, who shall have free access to the defendant at all reasonable hours. Where the defendant makes an informed waiver of counsel, the court in its discretion may assign standby counsel to assist the accused. Arraignment shall consist of reading the indictment to the defendant or stating to the defendant the substance of the charge and calling on on the defendant to plead thereto. The defendant shall be given a copy of the indictment or information before he or she is called upon to plead.

The defendant must be informed that if the name by which he or she is indicted or informed against is not his or her

true name, he or she must then declare what his or her true name is, or be proceeded against by the name in the indictment, and asking the defendant what he or she answers to the indictment. If the defendant gives no other name or gives his or her true name, the defendant is thereafter precluded from objecting to the indictment or information upon the ground of being therein improperly named. If the defendant alleges that another name is his or her true name, the court must direct an entry thereof in the minutes of the arraignment, and the subsequent proceedings on the indictment shall be had against the defendant by that name, and the indictment amended accordingly.

2. PLEAS TO THE INDICTMENT OR INFORMATION.

a. IN GENERAL. A defendant may plead guilty, not guilty, not guilty by reason of insanity, not triable by reason of present insanity, or a former judgment of conviction or acquittal of the offense charged. If the defendant fails or refuses to plead at arraignment, or if the court refuses to accept a guilty plea, the court shall enter a plea of not guilty. At any time before judgment, the court may permit a plea to be withdrawn and other plea or pleas substituted. A defendant who does not plead guilty may enter one or more of the other pleas.

b. PLEAS OF GUILTY. The court may refuse to accept a plea of guilty, and shall not accept such plea without first addressing the defendant personally and determining that the plea is made voluntarily. The defendant shall be informed of the following:

(1) The nature of the charge to which the plea is offered.

(2) The mandatory minimum punishment, if any, and the maximum possible punishment provided by the statute defining the offense to which the plea is offered.

(3) That the defendant has the right to plead not guilty, or to persist in that plea if it has already been made, or to plead guilty.

(4) That if the defendant pleads guilty there will not be a further trial of any kind, so that by pleading guilty

he waives the right to a trial by jury or otherwise and the right to be confronted with the witnesses against him or her.

The court shall accept the guilty plea only after determining that the defendant understands these matters, that the plea is voluntary, and that there is a factual basis for same.

3. RECORD OF PROCEEDINGS. A verbatim record of the proceedings at which the defendant enters a plea shall be made and, if there is a plea of guilty, the record shall include, without limitation, the court's advice to the defendant, the inquiry into the voluntariness of the plea including any plea agreement.

Rule 9. PLEA BARGAINING.

1. IN GENERAL. The prosecuting attorney and the attorney for the defendant may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty to a charged offense or to a lesser or related offense, the prosecuting attorney will move for dismissal of other charges, or will recommend or not oppose the imposition of a particular sentence, or will do both.

2. ADVISING COURT OF AGREEMENT. If a plea agreement has been reached by the parties which contemplates entry of a plea of guilty in the expectation that a specific sentence will be imposed or that other charges before the court will be dismissed, the court shall require the disclosure of the agreement in open court at the time the plea is offered. Thereupon the court may accept or reject the agreement, or may defer its decision as to acceptance or rejection until receipt of a presentence report.

3. ACCEPTANCE OF PLEA. If the court accepts the plea agreement, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement or another disposition more favorable to the defendant than that provided for in the plea agreement.

4. REJECTION OF PLEA. If the court rejects the plea agreement, the court shall inform the parties of this fact, advise the defendant personally in open court that the court

is not bound by the plea agreement, afford the defendant the opportunity to then withdraw his or her plea, and advise the defendant that if he or she persists in his or her guilty plea the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement.

5. INADMISSIBILITY OF PLEA DISCUSSIONS. If a plea discussion does not result in a plea of guilty, or if a plea of guilty is not accepted or is withdrawn, or if judgment on a plea of guilty is reversed on direct or collateral review, neither the plea discussion nor any resulting agreement, plea, or judgment shall be admissible in any criminal or civil action or administrative proceeding.

Rule 10. MOTIONS AND PLEADINGS.

1. PLEADINGS AND MOTIONS. Pleadings in criminal proceedings shall be the indictment and the information, and the pleas entered pursuant to rule eight (8). Demurrers, motions to quash, and motions to set aside are abolished, and defenses and objections raised before trial which heretofore could have been raised under them shall be raised by motion to dismiss, or a motion to grant appropriate relief as the case may be.

2. PRETRIAL MOTIONS. Any defense, objection, or request which is capable of determination without the trial of the general issue may be raised before trial by motion. The following must be raised prior to trial:

a. Defenses and objections based on defects in the institution of the prosecution.

b. Defenses and objections based on defects in the indictment or information (other than that it fails to show jurisdiction in the court or to charge an offense which objections shall be noticed by the court at any time during the pendency of the proceeding).

c. Motions to suppress evidence on the ground that it was illegally obtained.

d. Requests for discovery.

e. Requests for a severance of charges or defendants.

3. EFFECT OF FAILURE TO RAISE DEFENSES OR OBJECTIONS.

Failure of the defendant to timely raise defenses or objections or to make requests which must be made prior to trial under this rule shall constitute waiver thereof, but the court for cause, upon motion supported by affidavit, may grant relief from such waiver.

4. TIME OF FILING. Motions hereunder, except a motion for a bill of particulars or a change of venue, shall be filed either within thirty days after arraignment or prior to the impaneling of the trial jury, whichever event occurs earlier, unless the period for filing is extended by the court for good cause shown.

5. BILL OF PARTICULARS. When an indictment or information charges an offense in accordance with this rule but fails to specify the particulars of the offense sufficiently to fairly enable the defendant to prepare his or her defense, the court may, on written motion of the defendant, require the county attorney to furnish the defendant with a bill of particulars containing such particulars as may be necessary for the preparation of the defense. A motion for a bill of particulars may be made any time prior to or within ten days after arraignment unless the time be extended by the court for good cause shown. A plea of not guilty at arraignment does not waive the right to move for a bill of particulars if such motion is timely filed within this rule. The county attorney may furnish a bill of particulars on the county attorney's own motion, or the court may order a bill of particulars without motion. Supplemental bills of particulars may be likewise ordered by the court or voluntarily furnished, or a new bill may be substituted for a bill already furnished. At the trial the state's evidence shall be confined to the particulars of the bill or bills.

6. DISMISSING INDICTMENT OR INFORMATION.

a. IN GENERAL. If it appears from the bill of particulars furnished pursuant to this rule that the particulars stated do not constitute the offense charged in the indictment or information, or that the defendant did not commit that offense or that a prosecution for that offense is barred by the statute

of limitations, the court may and on motion of defendant shall dismiss the indictment or information unless the county attorney shall furnish another bill of particulars which so states the particulars as to show that the particulars constitute the offense charged in the indictment or information and that the offense was committed by the defendant and that it is not barred by the statute of limitations.

b. INDICTMENT. A motion to dismiss the indictment may be made on one or more of the following grounds:

(1) When the minutes of the evidence of witnesses examined before the grand jury are not returned therewith.

(2) When it has not been presented and marked "filed" as prescribed.

(3) When any person other than the grand jurors was present before the grand jury when the question was taken upon the finding of the indictment.

(4) When any person other than the grand jurors was present before the grand jury during the investigation of the charge, except as required or permitted by law.

(5) That the grand jury was not selected, drawn, summoned, impaneled, or sworn as prescribed by law.

c. INFORMATION. A motion to dismiss the information may be made on one or more of the following grounds:

(1) When the minutes of evidence have not been filed with the information.

(2) When the information has not been filed in the manner required by law.

(3) When the information has not been approved as required under rule five (5).

d. TIME OF MOTION. Entry of a plea of not guilty at arraignment does not waive the right to move to dismiss the indictment or information if such motion is timely filed within this rule.

7. EFFECT OF DETERMINATION. If the court grants a motion based on a defect in the institution of the prosecution or in the indictment or information, it may also order that the defendant be held in custody or that the defendant's bail

be continued for a specified period pending the filing of a new indictment or information if the same was dismissed by the court, or the amendment of any such pleading if the defect is subject to correction by amendment. The new information or indictment must be filed within thirty days of the dismissal of the original indictment or information and the defendant must be brought to trial within the time limits specified in rule twenty-seven (27), rules of criminal procedure.

8. RULING ON MOTION. A pretrial motion shall be determined before trial. Where factual issues are involved in determining a motion, the court shall state its essential findings on the record.

9. MOTION FOR CHANGE OF VENUE.

a. TIME OF MOTION. A motion for change of venue shall be made as soon as the grounds therefor appear. Such motion may be made before, at, or after arraignment, until the time the jury is impaneled and sworn.

b. GROUNDS. The court upon motion shall transfer the proceeding to another county if the court is satisfied that there exists such prejudice in the original county that a fair and impartial trial cannot be had before by reason of the prejudice of the judge, or to excitement or prejudice against the defendant in such county. The petition shall be verified on information and belief by the affidavit of the petitioners. If sustained on the ground of excitement and prejudice in the county, it must be transferred to another county in which no such objection exists.

c. SECOND CHANGE. When a change in place of trial has been granted to either the prosecution or the defense, the other party to whom no change has been granted, may, in the county to which the case has been sent, petition for a change in the same manner as though said county was the county in which the case was first pending. In such case, if the change be granted, the case shall not be sent to the county in which it was originally pending.

d. PROCEEDINGS ON TRANSFER. When a transfer of the case

is ordered to another county the clerk shall transmit to the clerk of the court to which the proceeding is transferred all papers in the proceeding or duplicates thereof and any bail taken, and the prosecution shall continue in that county. If the defendant is in custody, the court may order the defendant to be delivered to the sheriff of the county to which transfer of the case is allowed, and upon such delivery with a certified copy of the order therefor, the sheriff last mentioned must receive and detain the defendant. All expenses attendant upon the change of venue and trial, including the costs of keeping the defendant, which shall be allowed by the court trying the case, may be recovered by the county to which the case is transferred from the county in which the prosecution was commenced. The county attorney in the original county shall be responsible for the prosecution in such other county.

10. PLEADINGS OF DEFENDANT.

a. ALIBI.

(1) NOTICE. A defendant who intends to offer evidence of an alibi defense shall, within the time provided for the making of pretrial motions or at such later time as the court shall direct, inform the attorney for the government of such intention and file such notice. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the defendant intends to rely to establish such alibi. In the event that a defendant shall file such notice the attorney for the government shall file and serve upon the defendant the names and addresses of the witnesses the government proposes to offer in rebuttal to discredit the defendant's alibi. Such service shall be completed not less than five days after receipt of defendant's witness list, or within such other time as the court may direct. If either party shall fail to abide by the time periods heretofore described, the proponent must move the court for leave to introduce such evidence, showing diligence supported by affidavit.

(2) FAILURE TO COMPLY. Upon the failure of either party to comply with the requirements of this rule, the court shall exclude the testimony of any witness offered by such party to establish or rebut the defendant's alibi. This rule shall not limit the right of the defendant to testify in his own behalf.

b. INSANITY.

(1) DEFENSE OF INSANITY. If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, the defendant shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, inform the attorney for the government of such intention and file such notice. The court may for good cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

(2) MENTAL DISEASE OR DEFECT INCONSISTENT WITH THE MENTAL ELEMENT REQUIRED FOR THE OFFENSE CHARGED. If a defendant intends to introduce expert testimony relating to a mental disease, defect, or diminished mental capacity, the defendant shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, inform the attorney for the government of such intention and file such notice. The court may for good cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

(3) STATE'S RIGHT TO EXPERT EXAMINATION. Where a defendant has indicated the use of the defense of insanity, and has engaged an expert or experts for the purpose of examining him on the issue of insanity, the court shall order the examination of the defendant by a state-named expert or experts.

Rule 11. SUPPRESSION OF EVIDENCE.

1. MOTION TO SUPPRESS EVIDENCE. A person aggrieved by an unlawful search and seizure may move to suppress for use as evidence anything so obtained on any of the following

grounds:

a. The property was illegally seized without a warrant.

b. The warrant is insufficient on its face.

c. The property seized is not that described in the warrant.

d. There was not probable cause for believing the existence of the grounds on which the warrant was issued.

e. The warrant was illegally executed. The court shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored to its owner or legal custodian unless otherwise subject to lawful detention, and it shall not be admissible in evidence at any hearing or trial.

The motion shall be made before trial or hearing unless opportunity therefor did not exist or the defendant was unaware of the factual grounds for the motion; but the court in its discretion may entertain the motion at the trial or hearing, upon good cause supported by affidavit.

2. APPEAL OF INTERLOCUTORY ORDER. Any party aggrieved by an interlocutory order affecting the validity of a search warrant or the suppression of evidence, except in simple misdemeanors, may apply for a writ of certiorari to the supreme court or any justice thereof to review the order in advance of trial.

Rule 12. DEPOSITIONS.

1. BY DEFENDANT. A defendant in a criminal case, either after preliminary information, indictment, or information, may examine all witnesses listed by the state on the indictment or information or notice of additional witnesses, conditionally or on notice or commission, in the same manner and with like effect as in civil actions.

When the state receives notice that a deposition will be taken of a witness listed on the indictment, information or notice of additional witnesses, the state may object that the witness is (a) a foundation witness or (b) has been adequately examined on preliminary hearing. The court shall immediately determine whether discovery of said witness or

witnesses is necessary in the interest of justice and shall allow or disallow said deposition.

2. SPECIAL CIRCUMSTANCES. Whenever due to special circumstances of the case it is in the interest of justice that the testimony of a prospective witness not included in subsections one (1) or three (3) of this rule be taken and preserved for use at trial, the court may upon motion of a party and notice to the parties order that testimony of such witness be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged, be produced at the same time and place.

For purposes of this subsection, special circumstances shall be deemed to exist, and the court shall order that depositions be taken, only upon the showing of necessity arising from either the following circumstances:

a. The information sought by way of deposition cannot adequately be disclosed by a bill of particulars, or by voluntary statements.

b. Other just cause necessitating discovery by deposition.

3. BY STATE. At the taking of a deposition by a defendant under subsection one (1) or two (2) of this rule, the defendant shall list all witnesses expected to be called for the defense. There shall be a continuing duty throughout trial to disclose additional defense witnesses, and such witnesses shall be subject to being deposed by the state.

4. PERPETUATING TESTIMONY. A person apprehensive of a criminal prosecution may perpetuate testimony in his or her favor in the same manner and with like effect, as may be done in apprehension of any civil action.

Rule 13. DISCOVERY.

1. WITNESSES EXAMINED BY THE PROSECUTING ATTORNEY. When a witness subpoenaed by the prosecuting attorney pursuant to rule five (5) is summoned by the prosecuting attorney after complaint, indictment or information, the defendant shall be present and have the opportunity to cross-examine any witnesses whose appearance before the county attorney is

required by this rule.

2. DISCLOSURE OF EVIDENCE BY THE GOVERNMENT UPON DEFENSE MOTION OR REQUEST.

a. DISCLOSURE REQUIRED UPON REQUEST.

(1) Upon pretrial motion of a defendant the court shall order the attorney for the government to permit the defendant to inspect and copy or photograph: Any relevant written or recorded statements made by the defendant or copies thereof, within the possession, custody or control of the government, unless same shall have been included with the minutes of evidence accompanying the indictment or information; the substance of any oral statement made by the defendant which the government intends to offer in evidence at the trial, including any voice recording of same; and the transcript or record of testimony of the defendant before a grand jury, whether or not the government intends to offer same in evidence upon trial.

(2) When two or more defendants are jointly charged, upon motion of any defendant the court shall order the attorney for the government to permit the defendant to inspect and copy or photograph any written or recorded statement of a codefendant which the government intends to offer in evidence at the trial, and the substance of any oral statement which the government intends to offer in evidence at the trial made by a codefendant whether before or after arrest in response to interrogation by any person known to the codefendant to be a government agent.

(3) Upon motion of the defendant, the court shall order the government to furnish to defendant such copy of the defendant's prior criminal record, if any, as is then available to the government.

b. DISCRETIONARY DISCOVERY.

(1) Upon motion of the defendant the court may order the attorney for the government to permit the defendant to inspect, and where appropriate, to subject to scientific tests, items seized by the government in connection with the alleged crime. The court may further allow the defendant to inspect and copy

books, papers, documents, statements, photographs or tangible objects which are within the possession, custody or control of the government, and which are material to the preparation of his or her defense, or are intended for use by the government as evidence at the trial, or were obtained from or belong to the defendant.

(2) Upon motion of a defendant the court may order the attorney for the government to permit the defendant to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, made in connection with the particular case, or copies thereof, within the possession, custody or control of the government.

3. DISCLOSURE OF EVIDENCE BY THE DEFENDANT.

a. DOCUMENTS AND TANGIBLE OBJECTS. If the court grants the relief sought by the defendant under subdivision two (2), paragraph b, subparagraph one (1), of this rule, the court may, upon motion of the government, order the defendant to permit the government to inspect and copy books, papers, documents, statements other than those of the accused, photographs or tangible objects which are not privileged and are within the possession, custody or control of the defendant and which the defendant intends to introduce in evidence at trial.

b. REPORTS OF EXAMINATIONS AND TESTS. If the court grants relief sought by the defendant under subdivision two (2), paragraph b, subparagraph one (1), of this rule, the court may, upon motion of the government, order the defendant to permit the government to inspect and copy the results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant and which the defendant intends to introduce in evidence at the trial or which were prepared by a witness whom the defendant intends to call at the trial when such results or reports relate to his or her testimony.

c. TIME OF MOTION. A motion for the relief provided under subdivision two (2) of this rule shall be made, if at all,

within five days after any order granting similar relief to the defendant.

d. FAILURE TO EMPLOY EVIDENCE. When evidence intended for use and furnished under this rule is not actually employed at the trial, that fact shall not be commented upon at trial.

4. CONTINUING DUTY TO DISCLOSE. If, subsequent to compliance with an order issued pursuant to this rule, either party discovers additional evidence, or decides to use evidence which is additional to that originally intended for use, and such additional evidence is subject to discovery under this rule, the party shall promptly notify the other party of the existence of the additional evidence to allow the other party to make an appropriate motion for additional discovery.

5. REGULATION OF DISCOVERY.

a. PROTECTIVE ORDERS. Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted or deferred, or make such other order as is appropriate. In addition to any other grounds for issuing an order pursuant to this paragraph, the court may limit or deny discovery or inspection, or limit the number of depositions to be taken if the court determines that any of the following exist:

(1) That granting the motion will unfairly prejudice the nonmoving party and will deny that party a fair trial.

(2) That the motion is intended only as a fishing expedition and that granting the motion will unduly delay the trial and will result in unjustified expense.

(3) That the granting of the motion will result in the disclosure of privileged information.

(4) That the granting of the motion will create a probability of fabrication on the part of the moving party.

Upon motion by a party the court may permit a party to make such showing, in whole or in part, in the form of a written statement to be inspected by the judge alone. If the court enters an order granting relief following such a showing, the entire text of the party's statement shall be sealed and preserved in the records of the court to be made

available to the appellate court in the event of an appeal.

b. TIME, PLACE AND MANNER OF DISCOVERY AND INSPECTION. An order of the court granting relief under this rule shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.

c. FAILURE TO COMPLY. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order such party to permit the discovery or inspection, grant a continuance, or prohibit the party from introducing any evidence not disclosed, or it may enter such other order as it deems just under the circumstances.

d. SECRECY OF GRAND JURY. Except where specific provisions require otherwise, grand jury proceedings remain confidential. However, any member of the grand jury and the clerk thereof, and any officer of the court, may be required by the court or any legislative committee duly authorized to inquire into the conduct or acts of any state officer which might be the basis for impeachment proceedings, to disclose the testimony of a witness examined before the grand jury for the purpose of ascertaining whether it is consistent with that given by the witness before the court or legislative committee, or to disclose the same upon a charge of perjury against the witness, or when in the opinion of the court or legislative committee such disclosure is necessary in the administration of justice.

No grand juror shall be questioned for anything he or she may say or any vote the juror may give in the grand jury relative to a matter legally pending before it, except for perjury of which the juror may have been guilty in making an accusation, or in giving testimony to his or her fellow jurors.

Rule 14. SUBPOENAS.

1. FOR WITNESSES. A magistrate in a criminal action before him or her, and the clerk of court in any criminal

action pending therein, shall issue blank subpoenas for witnesses, signed by him or her, with the seal of the court if by the clerk, and deliver as many of them as requested to the defendant or the defendant's attorney or the attorney for the state.

2. FOR PRODUCTION OF DOCUMENTS--DUCES TECUM. A subpoena may contain a clause directing the witness to bring with him or her any book, writing, or other thing under the witness' control which he or she is bound by law to produce as evidence. The court on motion may quash or modify the subpoena if compliance would be unreasonable or oppressive.

3. SERVICE. A subpoena may be served in any part of the state. It may be served by any adult person. A peace officer making service in a criminal case must serve without delay in his or her county, city, or town any subpoena delivered to him for service and make a written return stating the time, place, and manner of service. When service is made by other than a peace officer, proof thereof shall be by affidavit. Service is made by showing the original to the witness and delivering a copy to him or her. If a witness conceals himself or herself to avoid service of a subpoena, the officer may break open doors or windows for the purpose of making service.

4. DEPOSITIONS. An order to take a deposition authorizes the clerk of the court for the county in which the deposition is to be taken to issue subpoenas for the persons named or described therein.

5. SANCTIONS FOR REFUSING TO APPEAR OR TESTIFY. Disobedience to a subpoena, or refusal to be sworn or to answer as a witness, may be punished by the court or magistrate as a contempt. The attendance of a witness who so fails to appear may be coerced by warrant.

Rule 15. PRETRIAL CONFERENCE.

1. WHEN HELD. Where a plea of other than guilty to an indictment or trial information is entered on behalf of the defendant, the court may order all parties to the action to appear before it for a conference to consider such matters as will promote a fair and expeditious trial.

2. DISCUSSIONS AND RECORD. The conference may explore such matters as amendment of pleadings, agreement to the introduction into evidence of photographs or other exhibits to which there is no objection, submission of requested jury instructions, and any other matters appropriate for discussion which may aid and expedite trial of the case.

3. STIPULATIONS AND ORDERS. The court shall make an order reciting any action taken at the conference which will control the subsequent course of the action relative to matters it includes, unless modified to prevent manifest injustice. A stipulation entered into at such conference shall bind the defendant at trial, on appeal, or in a post-conviction proceeding only if signed by both the defendant and the defendant's attorney and filed with the clerk.

Rule 16. TRIAL BY JURY OR COURT.

1. TRIAL BY COURT ALLOWED. Cases required to be tried by jury shall be so tried unless the defendant waives a jury trial in writing.

2. FINDINGS. In a case tried without a jury the court shall make a general finding. Where requested by any party before or during trial, the court shall find the facts specially and in writing, separately stating its conclusions of law and directing an appropriate judgment. A request for findings is not a condition precedent for review of the judgment.

Rule 17. JURIES.

1. RULES FOR DRAWING. The rules for drawing the jury shall be the same as those provided in civil procedure.

2. COMPLETION OF PANEL. 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.

3. CHALLENGES TO THE PANEL. All the provisions of law relating to challenges to the panel of trial jurors in civil procedure, the grounds therefor, the manner of exercising the same, and the effect thereof, shall apply to the panel of trial jurors in criminal cases.

4. CHALLENGES TO INDIVIDUAL JUROR. A challenge to an individual juror is an objection which may be taken orally, and is either for cause or peremptory.

5. CHALLENGES FOR CAUSE. A challenge for cause may be made by the state or defendant, and must distinctly specify the facts constituting the causes thereof. It may be made for any of the following causes:

a. A previous conviction of the juror of a felony.

b. A want of any of the qualifications prescribed by statute to render a person a competent juror.

c. Unsoundness of mind, or such defects in the faculties of the mind or the organs of the body as render the juror incapable of performing the duties of a juror.

d. Affinity or consanguinity, within the fourth degree, to the person alleged to be injured by the offense charged, or on whose preliminary information, or at whose instance, the prosecution was instituted, or to the defendant, to be computed according to the rule of the civil law.

e. Standing in the relation of guardian and ward, attorney and client, employer and employee, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose preliminary information, or at whose instance, the prosecution was instituted, or in his or her employ on wages.

f. Being a party adverse to the defendant in a civil action, or having been the prosecutor against or accused by the defendant in a criminal prosecution.

g. Having served on the grand jury which found the indictment.

h. Having served on a trial jury which has tried another defendant for the offense charged in the indictment.

i. Having been on a jury formerly sworn to try the same indictment and whose verdict was set aside, or which was discharged without a verdict after the cause was submitted to it.

j. Having served as a juror, in a civil action brought against the defendant, for the act charged as an offense.

k. Having formed or expressed such an opinion as to the guilt or innocence of the prisoner as would prevent the juror from rendering a true verdict upon the evidence submitted on the trial.

l. Because of the juror being bail for any defendant in the indictment.

m. Because the juror is defendant in a similar indictment, or complainant or private prosecutor against the defendant or any other person indicted for a similar offense.

n. Because the juror is, or within a year preceding has been, engaged or interested in carrying on any business, calling, or employment, the carrying on of which is a violation of law, where the defendant is indicted for a like offense.

o. Because the juror has been a witness, either for or against the defendant, on the preliminary hearing or before the grand jury.

p. Having requested, directly or indirectly, that his or her name be returned as a juryman for the regular biennial period.

6. EXAMINATION OF JURORS. Upon examination the jurors shall be sworn. If an individual juror is challenged, the juror may be examined as a witness to prove or disprove the challenge, and must answer every question pertinent to the inquiry thereon, but the juror's answer shall not afterwards be testimony against him or her. Other witnesses may also be examined on either side. The rules of evidence applicable to the trial of other issues shall govern the admission or exclusion of testimony on the trial of the challenge, and the court shall determine the law and the fact, and must allow or disallow the challenge.

7. ORDER OF CHALLENGES FOR CAUSE. The state shall first complete its challenge for cause, and the defendant afterwards, until sixteen jurors have been obtained against whom no cause of challenge has been found to exist.

8. ORDER OF CHALLENGES IN GENERAL. The challenges of either party need not be all taken at once, but separately, in the following order, including in each challenge all the causes of challenge belonging to the same class: To the panel; to an individual juror for cause; to an individual juror peremptorily.

9. PEREMPTORY CHALLENGES. Peremptory challenges shall be exercised in the same manner as is provided in the trial of civil actions.

10. PEREMPTORY CHALLENGES--NUMBER. If the offense charged in the indictment or information is or may be punishable with imprisonment for life, the state and defendant shall each have the right to peremptorily challenge eight jurors and shall strike two jurors.

If the offense charged be a felony, the state and the defendant shall each have the right to peremptorily challenge four jurors and shall strike two jurors.

If the offense charged be a misdemeanor, the state and the defendant shall each have the right to peremptorily challenge two jurors and shall strike two jurors.

11. MULTIPLE CHARGES. If the indictment charges different offenses in different counts, the state and the defendant shall each have that number of peremptory challenges which they would have if the highest grade of offense charged in the indictment were the only charge.

12. MULTIPLE DEFENDANTS. In a case where more than one defendant is tried, each defendant shall have one-half the number of challenges allowed in subdivision eleven (11) of this rule. The state shall be limited to the challenges and strikes specified in subdivision eleven (11). The defendants collectively shall be limited to two strikes.

13. CLERK TO PREPARE LIST--PROCEDURE. The clerk shall prepare a list of jurors called; and, after all challenges for cause are exhausted or waived, the parties, commencing with the state, shall alternately challenge peremptorily or waive by indicating any such challenge upon the list opposite the name of the juror challenged, or by indicating the number of waiver elsewhere on the list.

14. VACANCY FILLED. After each challenge, sustained for cause, or made peremptorily as indicated on the list, another

juror shall be called and examined for challenge for cause before a further challenge is made; and any new juror thus called may be challenged for cause and shall be subject to peremptory challenge or to being struck from the list as other jurors.

15. READING OF NAMES. After all challenges have thus been exercised or waived and four jurors have been struck from the list the clerk shall read the names of the twelve jurors remaining who shall constitute the jury selected.

16. JURORS SWORN. When twelve jurors are accepted they shall be sworn to try the issues.

17. ALTERNATE JURORS. The court may impanel one or more alternate jurors whose qualifications, powers, functions, facilities, and privileges shall be the same as regular jurors. After the regular jury is selected, the clerk shall draw the names of three more persons if one alternate juror is desired, or four more persons if two alternate jurors are desired, and so on in like proportion, who are to serve under this rule, who shall be sworn and subject to examination and challenge for cause as provided in this rule. Each party must then strike off one such name, and the one or two or appropriate number remaining shall be sworn to try the case with the regular jury, and sit at the trial. Alternate jurors shall, in the order they were drawn, replace any juror who becomes unable to act, or is disqualified, before the jury retires, and if not so needed shall then be discharged.

Rule 18. TRIAL.

1. ORDER OF TRIAL AND ARGUMENTS.

a. ORDER OF TRIAL. The jury having been impaneled and sworn, the trial must proceed in the following order:

(1) READING INDICTMENT AND PLEA. The clerk or prosecuting attorney must read the indictment or the supplemental indictment as required under the provision of the Code, and state the defendant's plea to the jury.

(2) STATEMENT OF STATE'S EVIDENCE. The prosecuting attorney may briefly state the evidence by which he or she expects to sustain the indictment.

(3) STATEMENT OF DEFENDANT'S EVIDENCE. The attorney for the defendant may then briefly state his or her defense, or the attorney for the defendant may waive the making of such statement; the attorney for the defendant may reserve the right to make such statement to a time immediately prior to presentation of defendant's evidence.

(4) OFFER OF STATE'S EVIDENCE. The state may then offer the evidence in support of the indictment.

(5) OFFER OF DEFENDANT'S EVIDENCE. The defendant or the defendant's counsel may then offer evidence in support of his or her defense.

(6) REBUTTING OR ADDITIONAL EVIDENCE. The parties may then, respectively, offer rebutting evidence only, unless the court, for good reasons, in furtherance of justice, permit them to offer evidence upon their original case.

b. ORDER OF ARGUMENT--ARGUMENTS. When the evidence is concluded, unless the case is submitted to the jury on both sides without argument, the prosecuting attorney must commence, the defendant follow by one or two counsel, at the defendant's option, unless the court permits the defendant to be heard by a larger number, and the prosecuting attorney conclude, confining himself to a response to the arguments of the defendant's counsel. Where two or more defendants are on trial for the same offense, they may be heard by one counsel each.

2. ADVANCE NOTICE OF EVIDENCE SUPPORTING INDICTMENTS OR INFORMATIONS. The prosecuting attorney, in offering trial evidence in support of an indictment, shall not be permitted to introduce any witness the minutes of whose testimony was not presented with the indictment to the court; in the case of informations, a witness may testify in support thereof if the witness' identity and a minute of the witness' evidence has been given pursuant to these rules. However, these provisions are subject to the following exception: Additional witnesses may be presented by the prosecuting attorney if he or she has given the defendant's attorney of record, or the defendant if he or she has no attorney, a minute of such

witness' testimony, at least seven days before the commencement of the trial.

3. FAILURE TO GIVE NOTICE. Whenever the prosecuting attorney desires to introduce evidence to support the indictment, of which he or she shall not have given seven days' notice because of insufficient time therefor since the prosecutor learned said evidence could be obtained, the prosecutor may move the court for leave to introduce such evidence, giving the same particulars as in the former case, and showing diligence, supported by affidavit. Except where the evidence goes to merely formal matters, if the court sustains said motion, the defendant shall elect whether said cause shall be continued on his motion, or the witness shall then testify. If said defendant shall not elect to have said cause continued, the prosecuting attorney may examine said witness in the same manner and with the same effect as though seven days' notice had been given defendant or the defendant's attorney as hereinbefore provided, except the prosecuting attorney, in the examination of witnesses, shall be strictly confined to the matters set out in his or her motion.

4. REPORTING OF TRIAL. All the provisions relating to mode and manner of the trial of civil actions, report thereof, translation of the shorthand reporter's notes, the making of such reports and translation of the record, and in all other respects, apply to the trial of criminal actions.

5. THE JURY UPON TRIAL.

a. VIEW.

(1) WHEN TAKEN. When the court is of the opinion that it is proper, the jury should view the place in which the offense is charged to have been committed, or in which any other material fact occurred. It may order the jury to be conducted in a body, in the custody of proper officers, to the place, which shall be shown them by a person appointed by the court for that purpose.

(2) ATTENDING OFFICERS. The officers must be sworn to suffer no person to speak to or communicate with the jury on any subject connected with the trial, or to do so

themselves, except the person appointed by the court for that purpose, and that only to show the place to be viewed, and to return them into court without unnecessary delay at a specified time.

b. JUROR MAY NOT BE WITNESS. A member of the jury may not testify as a witness in the trial of the case in which he or she is sitting as a juror. If the juror is called to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

c. ALTERNATE JURORS; SEPARATION AND DELIBERATION OF JURORS. The court may impanel alternate jurors, which may replace jurors originally selected, in the manner provided in civil cases. The jurors shall be kept together unless the court permits the jurors to separate as in civil cases; and the officers having charge of the jury shall suffer no person to communicate with them except as provided for in civil cases.

d. ADMONITION TO JURORS. The jury, whether permitted to separate or kept together in charge of sworn officers, must be admonished by the court that it is their duty not to permit any person to speak to or communicate with them on any subject connected with the trial, and that any and all attempts to do so should be immediately reported by them to the court, and that they should not converse among themselves on any subject connected with the trial, or form or express an opinion thereon, until the cause is finally submitted to them. Said admonition must be given or referred to by the court at each adjournment during the progress of the trial previous to the final submission of the cause to the jury.

e. NOTES TAKEN BY JURORS DURING TRIAL; EXHIBITS USED DURING DELIBERATIONS. Notes may be taken by jurors during the testimony of witnesses. All jurors shall have an equal opportunity to take notes. The court shall instruct the jury to mutilate and destroy any notes taken during the trial at the completion of the jury's deliberation. Upon retiring for deliberations the jury may take with it all papers and

exhibits which have been received in evidence, and the court's instructions. Provided, however, the jury shall not take with it depositions, nor shall it take original public records and private documents as ought not, in the opinion of the court, to be taken from the person having them in possession.

f. INSTRUCTIONS. Upon the conclusion of the arguments, the court shall charge the jury in writing, without oral explanation or qualification, stating the law of the case. The rules relating to the instruction of juries in civil cases shall be applicable to the trial of criminal prosecutions. After hearing the charge, the jury may either decide in court or retire for deliberation.

g. REPORT FOR INFORMATION. After the jury has retired for deliberation, if there be any disagreement as to any part of the testimony, or if it desires to be informed on any point of law arising in the cause, it must require the officer to conduct it into court, and, upon its being brought in, the information required may be given, in the discretion of the trial court. Where further information as to the testimony which was given at trial is taken by the jury, this shall be accomplished by the court reporter or other appropriate official reading from the reporter's notes. Where the court gives the jury additional instructions, this shall appear of record. Provided, that the procedures described in this section shall take place in the presence of counsel for the defense and prosecution, or after oral notice to the county attorney and defendant's counsel and provision of an opportunity to same to be present.

h. SEPARATION OF JURORS. On final submission, the jury shall retire for deliberation, and be kept together in charge of an officer until they agree on a verdict or are discharged by the court, unless the court permits the jurors to separate temporarily overnight, on weekends or holidays, or in emergencies. During their deliberations, the officer in charge must not suffer any communication to be made to them, nor make any himself or herself, except to ask them if they have agreed on a verdict, unless by order of court; nor communicate

to any person the state of their deliberations, or the verdict agreed upon before it is rendered.

6. RETRIAL OF DEFENDANTS WHEN ORIGINAL JURY IS DISCHARGED, AND IN OTHER CASES.

a. ILLNESS OF JURORS AND OTHER CASES. The court may discharge a jury because of any accident or calamity requiring it, or by consent of all parties, or when on an amendment a continuance is ordered, or if they have deliberated until it satisfactorily appears that they cannot agree. The case shall be retried immediately or at a future time, as the court directs.

b. LACK OF JURISDICTION; NO OFFENSE CHARGED. The court may also discharge the jury where it appears that it has no jurisdiction of the offense, or that the facts as charged in the indictment do not constitute an offense punishable by law.

c. CRIME COMMITTED IN ANOTHER STATE. If the jury be discharged because the court has not jurisdiction of the offense charged in the indictment, the offense being committed out of the jurisdiction of this state, the defendant must be discharged, or ordered to be retained in custody a reasonable time until the prosecuting attorney shall have a reasonable opportunity to inform the chief executive of the state in which the offense was committed of the facts, and for said officer to require the delivery of the offender.

d. NO OFFENSE CHARGED--RESUBMISSION. If the jury be discharged because the facts set forth do not constitute an offense punishable by law, the court must order the defendant discharged and his or her bail, if any, exonerated, or, if the defendant has deposited money instead of bail, that the money deposited be refunded, or that any conditions upon the defendant's release from custody be discharged. If in the court's opinion a new indictment can be framed upon which the defendant can be legally convicted, the court may direct that the case be submitted to the same or another grand jury.

7. THE TRIAL JUDGE.

a. COMPETENCY OF JUDGE AS WITNESS. The judge presiding

at the trial shall not testify in that trial as a witness. If the judge is called to testify, no objection need be made in order to preserve the point.

b. DISABILITY OF TRIAL JUDGE.

(1) DURING TRIAL. If by reason of death, sickness or other disability the judge before whom a jury trial has commenced is unable to proceed with the trial, any other judge regularly sitting in or assigned to the court, upon certifying that he or she has familiarized himself or herself with the record of the trial, may proceed with and finish the trial.

(2) AFTER VERDICT OR FINDING OF GUILT. If by reason of absence, death, sickness or other disability the judge before whom the defendant has been tried is unable to perform the duties to be performed by the court after a verdict or finding of guilty, any other judge regularly sitting in or assigned to the court may perform those duties; but if such other judge is satisfied that he or she cannot perform those duties because he or she did not preside at the trial or for any other reason, he or she may in his or her discretion grant a new trial.

c. ADJOURNMENTS DECLARED BY TRIAL COURT. While the jury is absent, the court may adjourn from time to time as to other business, but it shall be nevertheless deemed open for every purpose connected with the cause submitted to the jury until a verdict is rendered or the jury is discharged.

8. MOTION FOR JUDGMENT OF ACQUITTAL.

a. MOTION BEFORE SUBMISSION TO JURY. The court on motion of a defendant or of its own motion shall order the entry of judgment of acquittal of one or more offenses charged in the indictment after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such offense or offenses. If a defendant's motion for judgment of acquittal at the close of the evidence offered by the prosecuting attorney is not granted, the defendant may offer evidence without having waived his or her right to rely on such motion.

b. RESERVATION OF DECISION ON MOTION. If a motion for judgment of acquittal is made at the close of all the evidence,

the court may reserve decision on the motion, submit the case to the jury and decide the motion either before the jury returns a verdict or after it returns a verdict or is discharged without having returned a verdict.

9. TRIAL OF QUESTIONS INVOLVING PRIOR CONVICTIONS. After conviction of the primary or current offense, but prior to pronouncement of sentence, if the indictment or information alleges one or more prior convictions which by the Code subjects the offender to an increased sentence, the offender shall have the opportunity in open court to affirm or deny that he or she is identical with the person previously convicted, or that he or she was not represented by counsel. If the offender denies he or she is the person previously convicted, sentence shall be postponed for such time as to permit a trial before a jury on the issue of the offender's identity with the person previously convicted. Other objections shall be heard and determined by the court, and these other objections shall be asserted prior to trial of the substantive offense in the manner presented in rule ten (10). On the issue of identity, the court may in its discretion reconvene the jury which heard the current offense or dismiss that jury and submit the issue to another jury to be later impaneled. If the offender is found by the jury to be the person previously convicted, or if the offender acknowledged that he or she is such person, the offender shall be sentenced as prescribed in the Code.

Rule 19. WITNESSES.

1. COMPETENCY OF WITNESSES; CROSS-EXAMINATION OF THE ACCUSED. The rules for determining the competency of witnesses in civil actions are, so far as they are in their nature applicable, extended also to criminal actions and proceedings, except as otherwise provided. A defendant in a criminal action or proceeding shall be a competent witness in his or her own behalf, but cannot be called by the state. If the defendant offers himself or herself as a witness, the defendant may be cross-examined as an ordinary witness, but the state shall be strictly confined therein to the matters testified

to in the examination in chief.

2. COMPELLING ATTENDANCE OF WITNESSES FROM WITHOUT THE STATE TO PROCEEDINGS IN IOWA. The presence and testimony of a witness located outside the state may be secured through the uniform act to secure witnesses from without the state set forth in division nineteen (XIX) of this chapter.

3. IMMUNITY.

a. Before any witness shall be compelled to answer or to produce evidence in any judicial proceeding after having asserted that such answer or evidence would tend to render him or her criminally liable, incriminate him or her or violate his or her right to remain silent, the witness must knowingly waive his right or:

(1) A county attorney or the attorney general must file with a district court judge or district associate judge a verified application setting forth that:

The testimony of the witness, or the production of documents or other evidence in the possession of such witness, or both, is necessary and material; and

The witness has refused to testify, or to produce documents or other eivdence, or both, upon the ground that such testimony or evidence would tend to incriminate him or her; and

It is the considered judgment of the county attorney or attorney general that justice and the public interest require the testimony, documents or evidence in question.

(2) The application, transcripts and orders required by this subsection shall be filed as a separate case in the criminal docket entitled "In the matter of the testimony of (Name of witness)" and shall be indexed in the criminal index under the name of the witness. Any testimony given in support of the application for immunity shall be reported and a transcript of the testimony shall be filed with the application.

(3) Upon consideration of such application the judge shall enter an order granting the witness immunity to prosecution for any crime or public offense concerning which the witness was compelled to give competent and relevant testimony or

to produce competent and relevant evidence.

(4) Testimony, documents or evidence which has been given by a witness granted immunity shall not be used against the witness in any trial or proceeding, or subject the witness to any penalty or forfeiture; provided, that such immunity shall not apply to any prosecution or proceeding for a perjury or a contempt of court committed in the course of or during the giving of such testimony.

b. A complete verbatim transcript of testimony given pursuant to an order of immunity shall be made and filed with the application and the order of court. The application, order granting immunity and all transcripts filed shall be sealed upon motion of the defendant, county attorney, or attorney general and shall be opened only by order of the court. This section shall not bar the use of the transcript as evidence in any proceeding except the transcript shall not be used in any proceeding against the witness himself.

c. Whoever shall refuse to testify or to produce evidence after having been granted immunity as aforesaid shall be subject to punishment for contempt of court as in the case of any witness who refuses to testify, a claim to privilege against self-incrimination notwithstanding.

4. WITNESSES FOR INDIGENTS. Counsel for a defendant who is financially unable to obtain expert or other witnesses necessary to an adequate defense of the case may request compensation in a written application. Upon finding, after appropriate inquiry, that the services are necessary and that the defendant is financially unable to provide compensation, the court shall authorize counsel to obtain such witnesses on behalf of the defendant. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them pursuant to division fifteen (XV) of this chapter.

Rule 20. EVIDENCE.

1. RULES. The rules of evidence prescribed in civil procedure shall apply to criminal proceedings as far as applicable and not inconsistent with the provisions of this rule.

2. QUESTIONS OF LAW AND FACT. Upon jury trial of a criminal case, questions of law are to be decided by the court, saving the right of the defendant and state to object; questions of fact are to be tried by jury.

3. CORROBORATION OF ACCOMPLICE OR PERSON SOLICITED. A conviction cannot be had upon the testimony of an accomplice or a solicited person, unless corroborated by other evidence which shall tend to connect the defendant with the commission of the offense; and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

4. CONFESSION OF DEFENDANT. The confession of the defendant, unless made in open court, will not warrant a conviction, unless accompanied with other proof that the defendant committed the offense.

5. PRIOR INCONSISTENT STATEMENT UNDER OATH. Evidence of a statement made under oath or affirmation by a witness is admissible if this prior statement is inconsistent with his testimony at a trial or hearing, and the witness is given an opportunity to explain or to deny the statement.

6. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS OF SEXUAL ABUSE. In prosecutions for the crime of sexual abuse, evidence of the prosecuting witness' previous sexual conduct shall not be admitted, nor reference made thereto in the presence of the jury, except as provided herein. Evidence of the prosecuting witness' previous sexual conduct shall be admissible if the defendant shall make application to the court before or during the trial.

The court shall conduct a hearing in camera as to the relevancy of such evidence of previous sexual conduct, and shall limit the questioning and control the admission and exclusion of evidence upon trial.

In no event shall such evidence of previous sexual conduct of the prosecuting witness committed more than one year prior to the date of the alleged crime be admissible upon the trial, except previous sexual conduct with the defendant. Nothing in this section shall limit the right of either the state

or the accused to impeach credibility by the showing of prior felony convictions.

Rule 21. VERDICT.

1. FORM OF VERDICTS. In open court the jury must render a verdict of "guilty", which imports a conviction, or "not guilty" or "not guilty by reason of insanity" which imports acquittal, on the material allegations in the charge; however, upon a plea of former conviction or acquittal of the same offense, it shall be "for the state" or "for the defendant". The jury shall return a verdict determining the degree of guilt in cases submitted to determine the grade of the offense.

2. ANSWERS TO INTERROGATORIES. It must also return with the general verdict answers to special interrogatories submitted by the court upon its own motion, or at the request of the defendant in prosecutions where the defense is an affirmative one, or it is claimed any witness is an accomplice, or there has been a failure to corroborate where corroboration is required.

3. FINDING OFFENSE OF DIFFERENT DEGREE; INCLUDED OFFENSES. Upon trial of an offense consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the indictment or information, and guilty of any degree inferior thereto, or of an attempt to commit the offense when such attempt is prohibited by law. In all cases, the defendant may be found guilty of any offense the commission of which is necessarily included in that with which the defendant is charged.

4. SEVERAL DEFENDANTS. On an indictment or information against several defendants, if the jury cannot agree upon a verdict as to all, it may render a verdict as to those in regard to whom it does agree, on which a judgment shall be entered accordingly, and the case as to the rest may be tried by another jury. Upon an indictment or information against several defendants, any one or more may be convicted or acquitted.

5. RETURN OF JURY; READING AND ENTRY OF VERDICT; UNANIMOUS VERDICT. The jury, agreeing on a verdict unanimously, shall

bring the verdict into court, where it shall be read to them, and inquiry made if it is their verdict. A party may then require a poll asking each juror if it is his or her verdict. If any juror express disagreement on such poll or inquiry, the jury shall be sent out for further deliberation; otherwise, the verdict is complete and the jury shall be discharged. When the verdict is given and is such as the court may receive, the clerk may enter it in full upon the record.

6. VERDICT INSUFFICIENT; RECONSIDERATION; INFORMAL VERDICT. If the jury renders a verdict which is in none of the forms specified in this rule, or a verdict of guilty in which it appears to the court that the jury was mistaken as to the law, the court may direct the jury to reconsider it, and it shall not be recorded until it is rendered in some form from which the intent of the jury can be clearly understood. If the jury persists in finding an informal verdict, from which, however, it can be understood that the intention is to find for the defendant upon the issue, it shall be entered in the terms in which it is found, and the court must give judgment of acquittal.

7. DEFENDANT DISCHARGED ON ACQUITTAL. If judgment of acquittal is given on a general verdict of not guilty, and the defendant is not detained for any other legal cause, the defendant must be discharged as soon as the judgment is given.

8. ACQUITTAL ON GROUND OF MENTAL ILLNESS; COMMITMENT. If the defense is mental illness of the defendant, the jury must be instructed, if it acquits the defendant on that ground, to state that fact in its verdict. Upon hearing, the court may thereupon, if the defendant is found to be dangerous to the public peace and safety, order the defendant committed to one of the mental health institutes or the Iowa security medical facility, or retained in custody, until he or she demonstrates good mental health and is considered no longer dangerous to the public peace and safety or to himself.

9. PROOF NECESSARY TO SUSTAIN VERDICT OF GUILTY.

a. REASONABLE DOUBT. Where there is a reasonable doubt of the defendant being proven to be guilty, the defendant

is entitled to an acquittal.

b. REASONABLE DOUBT AS TO DEGREE. Where there is a reasonable doubt of the degree of the offense of which the defendant is proved to be guilty, the defendant shall only be convicted of the degree as to which there is no reasonable doubt.

Rule 22. JUDGMENT.

1. ENTRY OF JUDGMENT OF ACQUITTAL OR CONVICTION. Upon a verdict of not guilty for the defendant, or special verdict upon which a judgment of acquittal must be given, the court must render judgment of acquittal immediately. Upon a plea of guilty, verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court must fix a date for pronouncing judgment, which must be within a reasonable time but not less than eight days after the plea is entered or the verdict is rendered, unless defendant consents to a shorter time.

2. FORFEITURE OF BAIL; WARRANT OF ARREST. If the defendant has been released on bail, or has deposited money instead thereof, and does not appear for judgment when the defendant's personal appearance is necessary, the court, in addition to the forfeiture of the undertaking of bail or money deposited, may make an order directing the clerk, on the application of the county attorney at any time thereafter, to issue a warrant into one or more counties for the defendant's arrest, which may be substantially in the form illustrated in the appendix of forms to these rules. The warrant may be served in any county in the state. The officer must arrest the defendant and bring the defendant before the court, or commit the defendant to the officer mentioned in the warrant.

3. IMPOSITION OF SENTENCE.

a. INFORMING THE DEFENDANT. When the defendant appears for judgment, he or she must be informed by the court or the clerk under its direction, of the nature of the indictment, his or her plea, and the verdict, if any thereon, and be asked whether he or she has any legal cause to show why judgment should not be pronounced against him.

b. WHAT MAY BE SHOWN FOR CAUSE. The defendant may show

for cause against the judgment that he or she is insane, or any sufficient ground for a new trial, or in arrest of judgment.

c. INSANITY. If the court is of the opinion that there is reasonable ground for believing the defendant insane, the question of the defendant's insanity shall be determined as provided in the Code, and if the defendant is found to be insane, such proceedings shall be had as are herein directed.

d. JUDGMENT ENTERED. If no sufficient cause is shown why judgment should not be pronounced, and none appears to the court upon the record, judgment shall be rendered. Prior to such rendition, counsel for the defendant, and the defendant personally, shall be allowed to address the court where either wishes to make a statement in mitigation of punishment. In every case the court shall include in the judgment entry the number of the particular section of the Code under which the defendant is sentenced.

e. NOTIFICATION OF RIGHT TO APPEAL. After imposing sentence in a case, the court shall advise the defendant of his or her right to appeal as provided in rule fifteen point one (15.1) of the rules of the supreme court.

f. CLERICAL MISTAKES. Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

g. WITHDRAWAL OF PLEA OF GUILTY. At any time before judgment, the court may permit the plea of guilty to be withdrawn and other plea or pleas substituted.

Rule 23. MOTIONS AFTER TRIAL.

1. IN GENERAL. Permissible motions after trial include motions for new trial, motions in arrest of judgment, and motions to correct a sentence.

2. NEW TRIAL.

a. PROCEDURAL STEPS IN SEEKING OR ORDERING NEW TRIAL. The application for a new trial can be made only by the defendant and shall be made before judgment, but where based

upon newly discovered evidence may be made after judgment as well. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In any case the court shall specify in the order the grounds therefor.

b. GROUNDS.

The court may grant a new trial for any or all of the following causes:

(1) When the trial has been held in the absence of the defendant, in cases where such presence is required by law, except as provided in rule twenty-five (25).

(2) When the jury has received any evidence, paper or document out of court not authorized by the court.

(3) When the jury have separated without leave of court, after retiring to deliberate upon their verdict, or have been guilty of any misconduct tending to prevent a fair and just consideration of the case.

(4) When the verdict has been decided by lot, or by means other than a fair expression of opinion on the part of all jurors.

(5) When the court has misdirected the jury in a material matter of law, or has erred in the decision of any question of law during the course of the trial, or when the prosecuting attorney has been guilty of prejudicial misconduct during the trial thereof before a jury.

(6) When the verdict is contrary to law or evidence.

(7) When the court has refused properly to instruct the jury.

(8) When the defendant has discovered important and material evidence in his or her favor since the verdict, which the defendant could not with reasonable diligence have discovered and produced at the trial. A motion based upon this ground may be made within two years after final judgment, but such motion may be considered thereafter upon a showing of good cause. When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must

produce at the hearing, in support thereof, the affidavits of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits, the court may postpone the hearing of the motion for such length of time as, under all circumstances of the case, may be reasonable.

(9) When from any other cause the defendant has not received a fair and impartial trial.

c. TRIALS WITHOUT JURIES. On a motion for a new trial in an action tried without a jury, the court may where appropriate, in lieu of granting a new trial, vacate the judgment if entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and enter judgment accordingly.

d. EFFECT OF A NEW TRIAL. The granting of a new trial places the parties in the same position as if no trial had been had; all the testimony must be produced anew and the former verdict cannot be used or referred to either in evidence or argument.

e. TIME OF DECISION. A motion for new trial shall be heard and determined by the court within thirty days from the date it is filed, except upon good cause entered in the record.

3. ARREST OF JUDGMENT.

a. MOTION IN ARREST OF JUDGMENT: DEFINITION AND GROUNDS. A motion in arrest of judgment is an application by the defendant that no judgment be rendered on a finding, plea, or verdict of guilty. Such motion shall be granted when upon the whole record no legal judgment can be pronounced.

b. TIME OF MAKING MOTION BY PARTY. The motion must be made before the judgment is pronounced, and shall be filed within six days after finding, plea, or verdict of guilty.

c. ON MOTION OF COURT. The court may also, upon its own observation of any of these grounds, arrest the judgment on its own motion.

d. EFFECT OF ORDER ARRESTING JUDGMENT. The effect of an order arresting judgment is to place the defendant in the

same situation in which he or she was immediately before the indictment was found or the information filed.

e. PROCEEDINGS AFTER ORDER ARRESTING JUDGMENT. If, from the evidence on the trial, there is reasonable ground to believe the defendant guilty, and a new indictment or information can be framed, the court may order the defendant to be recommitted to the officer of the proper county, or admitted to bail or otherwise released anew, to answer the new indictment. In such case the order arresting judgment shall not be a bar to another prosecution. But if the evidence upon trial appears to the trial court insufficient to charge the defendant with any offense, the defendant must, if in custody, be released; or, if admitted to bail, his or her bail be exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant.

f. TIME OF DECISION. A motion in arrest of judgment shall be heard and determined by the court within thirty days from the date it is filed, except upon good cause entered in the record.

4. GENERAL PRINCIPLES.

a. EXTENSIONS. The time for filing motions for new trial or in arrest of judgment may be extended to such further time as the court may fix during the six-day period.

b. DISPOSITION. If the defendant moves for a new trial, or in arrest of judgment, the court shall defer the judgment and proceed to hear and decide the motions.

c. APPEAL. Appeal from an order granting or denying a motion for new trial or in arrest of judgment may be taken by the state or the defendant. Where the court has denied the motion for new trial or in arrest of judgment, or both, appeal may be had only after judgment is pronounced.

d. CUSTODY PENDING APPELLATE DETERMINATION. Pending determination by the supreme court of such appeal, the trial court shall determine whether the defendant shall remain in custody, or whether, if in custody, the defendant should be

released on bail or his or her own recognizance. Where the trial court has arrested judgment and an appeal is taken by the state, and it further appears to the trial court that there is no evidence sufficient to charge the defendant with an offense, the defendant shall not be held in custody.

e. REINSTATEMENT OF VERDICT. In the event the supreme court reverses the order of the trial court arresting judgment or granting a new trial, it shall order that the verdict be reinstated, unless the supreme court finds other errors, in which event it may order that the verdict be set aside and a new trial be granted.

5. CORRECTION OF SENTENCE.

a. TIME WHEN CORRECTION OF SENTENCE MAY BE MADE. The court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within one hundred twenty days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal.

b. CREDIT FOR TIME SERVED. The defendant shall receive full credit for time spent in custody under the sentence prior to correction or reduction.

Rule 24. EXECUTION AND STAY THEREOF.

1. MECHANICS OF EXECUTION.

a. COPY OF JUDGMENT. When a judgment of confinement, either in the penitentiary or county jail or other detention facility, is pronounced, an execution, consisting of a certified copy of the entry of judgment must be forthwith furnished to the officer whose duty it is to execute the same, who shall proceed and execute it accordingly, and no other warrant or authority is necessary to justify or require its execution.

b. EXECUTION AND RETURN WITHIN COUNTY; CONFINEMENT. A judgment for confinement to be executed in the county where the trial is had shall be executed by the sheriff thereof, and return made upon the execution, which shall be delivered to and filed by the clerk of said court.

c. EXECUTIONS OUTSIDE COUNTY; CONFINEMENT.

(1) Under all other judgments for confinement, the sheriff shall deliver a certified copy of the execution with the body of the defendant to the keeper of the jail or penitentiary in which the defendant is to be confined in execution of the judgment, and take his or her receipt therefor on a duplicate copy thereof, which the sheriff must forthwith return to the clerk of the court in which the judgment was rendered, with the sheriff's return thereon, and a minute of said return shall be entered by the clerk as a part of the record of the proceedings in the cause in which the execution issued.

(2) When such defendant is discharged from custody, the jailer or warden of the place of confinement shall make return of such fact to the proper court, and an entry thereof shall be made by its clerk as is required in the first instance.

d. EXECUTION FOR FINE.

(1) Upon a judgment for a fine, an execution may be issued as upon a judgment in a civil case, and return thereof shall be made in like manner.

(2) Judgments for fines, in all criminal actions rendered, are liens upon the real estate of the defendant, and shall be entered upon the lien index in the same manner and with like effect as judgments in civil actions.

e. EXECUTION IN OTHER CASES. When the judgment is for the abatement or removal of a nuisance, or for anything other than confinement or payment of money by the defendant, an execution consisting of a certified copy of the entry of such judgment, delivered to the sheriff of the proper county, shall authorize and require the sheriff to execute such judgement, and he or she shall return the same, with the sheriff's doings under the same thereon endorsed, to the clerk of the court in which the judgment was rendered, within a time specified by the court but not exceeding seventy days after the date of the certificate of such certified copy.

f. DAYS IN JAIL BEFORE TRIAL CREDITED. The defendant shall receive full credit for time spent in custody on account of the offense for which he or she is convicted.

2. STAY OF EXECUTION.

a. CONFINEMENT. A sentence of confinement shall be stayed if an appeal is taken and the defendant is released pending disposition of appeal pursuant division fourteen (XIV).

b. FINE AND OTHER CASES. The defendant may have a stay of execution for the same length of time and in the same manner as provided by law in civil actions, and with like effect, and the same proceedings may be had therein.

c. PROBATION. An order placing the defendant on probation may be stayed if an appeal is taken. If not stayed, the court shall specify when the term of probation shall commence. If the order is stayed the court shall fix the terms of the stay.

Rule 25. PRESENCE OF DEFENDANT; REGULATION OF CONDUCT BY THE COURT.

1. FELONY OR MISDEMEANOR. In felony cases the defendant shall be present at the arraignment, at the time of the plea, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule. In other cases the defendant may appear by counsel.

2. CONTINUED PRESENCE NOT REQUIRED. In all cases, the progress of the trial or any other proceeding shall not be prevented whenever a defendant, initially present, does one of the following:

a. Voluntarily absents himself or herself after the trial or other proceeding has commenced.

b. Engages in conduct which is such as to justify the defendant being excluded from the courtroom.

3. PRESENCE NOT REQUIRED. A defendant need not be present in the following situations:

a. A corporation may appear by counsel for all purposes.

b. The defendant's presence is not required at a reduction of sentence under rule twenty-three (23).

4. REGULATION OF CONDUCT IN THE COURTROOM.

a. The taking of photographs in the courtroom during the progress of judicial proceedings or radio broadcasting or

televising of judicial proceedings from the courtroom shall not be permitted by the court, except for appropriate noncommercial purposes upon agreement by the prosecutor and the written consent of the defendant.

b. When a defendant engages in conduct seriously disruptive of judicial proceedings, one or more of the following steps may be employed to ensure decorum in the courtroom:

(1) Cite the defendant for contempt.

(2) Take the defendant out of the courtroom until he or she promises to conduct himself or herself properly.

(3) Bind and gag the defendant, thereby keeping the defendant present.

c. When a person who is present in the courtroom is supposed by a magistrate to have upon his or her person a weapon, the magistrate or judge may direct that such person be searched, and any weapon be retained subject to order of the court.

d. The magistrate may cause to have removed from the courtroom any person whose exclusion is necessary to preserve the integrity or order of the proceedings.

Rule 26. RIGHT TO ASSIGNED COUNSEL.

1. REPRESENTATION. Every defendant who is an indigent as defined in section three hundred thirty-six A point four (336A.4) of the Code shall be entitled to have counsel assigned to represent him or her at every stage of the proceedings from the defendant's initial appearance before the magistrate or the court through appeal, including probation and parole revocation hearings, unless the defendant waives such appointment.

2. COMPENSATION. When counsel is assigned to represent an indigent defendant, or to serve as standby counsel as provided in rule eight (8), compensation shall be paid as directed in division fifteen (XV) of this chapter.

Rule 27. DISMISSAL OF PROSECUTIONS; RIGHT TO SPEEDY TRIAL.

1. DISMISSAL GENERALLY: EFFECT. The court, upon its own motion or the application of the county attorney, in the furtherance of justice, may order the dismissal of any pending

criminal prosecution, the reasons therefor being stated in the order and entered of record, and no such prosecution shall be discontinued or abandoned in any other manner. Such a dismissal is a bar to another prosecution for the same offense if it is a simple or serious misdemeanor; but it is not a bar if the offense charged be a felony or an aggravated misdemeanor.

2. SPEEDY TRIAL. It is the public policy of the state of Iowa that criminal prosecutions be concluded at the earliest possible time consistent with a fair trial to both parties. Applications for dismissals under this subsection may be made by the county attorney or the defendant or by the court on its own motion.

a. When a person is arrested for the commission of a public offense and an indictment is not found against him within forty-five days, the court must order the prosecution to be dismissed, unless good cause to the contrary is shown or the defendant waives his right thereto.

b. If a defendant indicted for a public offense has not waived his right to a speedy trial he must be brought to trial within ninety days after indictment is found or the court must order the indictment to be dismissed unless good cause to the contrary be shown.

c. All criminal cases must be brought to trial within one year after the defendant's initial arraignment unless an extension is granted by the court, upon a showing of good cause.

d. If the court direct the prosecution to be dismissed, the defendant, if in custody, must be discharged, or his bail, if any, exonerated, and if money has been deposited instead of bail, it must be refunded to the defendant.

Rule 28. MOTIONS AND OTHER PAPERS.

1. MOTIONS. An application to the court for an order shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state the grounds upon which it is made and shall set forth the relief or order sought.

It may be supported by affidavit.

2. SERVICE OF MOTIONS AND PAPERS. Service and filing of written motions, notices and other similar papers shall be in the manner provided in civil actions.

Rule 29. RULES OF COURT.

1. DISTRICT COURT PRACTICE RULES. Any rules made by courts governing local practice therein shall be consistent with these rules and applicable statutes.

2. PROCEDURES NOT SPECIFIED THEREIN. If no procedure is specifically prescribed by these rules or by statute, the court may proceed in any lawful manner not inconsistent with same.

Rule 30. FORMS. The forms contained in the appendix of forms are illustrative and not mandatory, and any particular instrument may be in more or less the form illustrated.

Rule 31. TITLE. These rules shall be known as the rules of criminal procedure. (R.Cr.P.)

APPENDIX OF FORMS

(See Rule 30)

FORM 1

SEARCH WARRANT

State of Iowa

County of _____

To any peace officer of the state:

Proof having been this day made before me as provided by law that (here, with reasonable certainty and in accordance with the information and other proof obtained by the magistrate, designate the property, its location, the person in possession thereof, and the unlawful use or purpose to which it has been, or is being employed or held) and being satisfied that the foregoing recital relative to said property is probably true, now, therefore, you are commanded to make immediate search of (here state whether the search is of the person of a named person or of said premises, or of another designated thing) and if said property or any part thereof be found, you are commanded to bring said property forthwith before me at my office.

Dated at _____ this _____ day of _____, _____.

_____
(official title)

FORM 2

ARREST WARRANT ON A COMPLAINT

State of Iowa
County of _____

To any peace officer of the state:

Complaint upon oath or affirmation having been this day filed with me, charging that the crime (naming it) has been committed and accusing A_____ B_____ _____ thereof:

You are commanded forthwith to arrest the said A_____ _____ B_____ and bring such person before me at (naming the place), or, in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at _____ this _____ day of _____, _____.

C_____ D_____
(with official title)

FORM 3

ARREST WARRANT AFTER INDICTMENT OR INFORMATION

State of Iowa
County of _____

To any peace officer in the state:

An indictment (information) having been filed in the district court of said county on the _____ day of _____, _____, (the day on which the indictment (information) is filed) charging A. B. with the crime of (here designate the offense by the number of the statutory provision and name of the offense if it have one, or by a brief general description of it, substantially as in the indictment).

You are hereby commanded to arrest the said A. B. and bring such person before said court to answer said indictment.

Signed this _____ day of _____, _____.

(Seal) _____
Clerk or Judge

By order of the judge of the court.

There may be added to the above, "Let the defendant be admitted to bail in the amount of _____ dollars (or subject to other conditions endorsed on the warrant)."

If the offense be a misdemeanor, the warrant may be in a similar form, adding to the body thereof a direction substantially to the following effect: "Or, if the said A. B. require it, that you take such person before a magistrate or the clerk of the district court in said county, or in the county in which you arrest such person, that such person may give bail to answer the said indictment", and the clerk may make an endorsement thereon to the following effect: "The defendant is to be admitted to bail in the sum of _____ dollars" (the amount fixed by the judge).

FORM 4

ARREST WARRANT WHEN DEFENDANT FAILS TO APPEAR FOR SENTENCING

State of Iowa
County of _____

To any peace officer in the state:

A_____ B_____,
having been duly convicted on the _____ day of _____, _____, in the district court of _____ County, of the crime of (here state the name of the offense and the statutory provision).

You are hereby commanded to arrest the said A_____ _____ B_____ and bring such person before said court for judgment.

Signed this _____ day of _____, _____.

_____
Clerk or Judge

FORM 5

BAIL BOND

State of Iowa
County of _____

An indictment (or charge) having been found (or made) in

the district court (or other appropriate court) of the county of _____ on the _____ day of _____, _____, charging A_____ B_____ _____ with the crime of _____ (designating it as in the warrant, indictment, or complaint), and such person having been duly admitted to bail in the sum of _____ dollars:

We, A_____ B_____ and E_____ F_____, hereby undertake that the said A_____ B_____ shall appear at the _____ court of the county of _____, on the _____ day of _____, _____, and answer the said indictment (or charge), and submit to the orders and judgment of said court, and not depart without leave of same, or, if such person fail to perform either of these conditions, that such person will pay to the State of Iowa the sum of _____ (inserting the sum in which the defendant is admitted to bail).

A_____ B_____
E_____ F_____

Acknowledged before and accepted by me at _____, in the township of _____, in the county of _____ this _____ day of _____, _____.

G_____ H_____
(with official title)

FORM 6

ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL

State of Iowa
County of _____

To the sheriff of the County of _____:

C_____ D_____, who is detained by you on commitment (or indictment or conviction, as the case may be) for the offense of (here designate it generally), having given sufficient bail to answer the same, you are commanded forthwith to discharge such person from custody.

Dated at _____, in the township (town or city) of _____, in the county of _____, this _____ day of _____, _____.

K_____ L_____
(with official title)

FORM 7

ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL: ANOTHER FORM

(For endorsement on warrant or order of commitment)

State of Iowa
County of _____

To the officer (naming the officer and the officer's title, thus A_____ B_____, Sheriff of _____ County) having in custody C_____ _____ D_____ (naming him):

The defendant named in the within warrant of arrest (or order of commitment) now in your custody under the authority thereof for the offense therein designated, having given sufficient bail to answer the same by the undertaking herewith delivered to you, you are commanded forthwith to discharge such person from custody, and, without unnecessary delay, deliver this order, together with the said undertaking of bail, to _____ _____ (name and address of the appropriate district court clerk, or the court or magistrate who issued the warrant).

Dated at _____ this _____ day of _____, _____.

E_____ F_____
(with official title)

FORM 8

TRIAL INFORMATION

(also designated County Attorney's Information)

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF IOWA

vs. INFORMATION

A_____ B_____

Comes now _____, as county attorney of _____ County, State of Iowa, and in the name and

by the authority of the State of Iowa accuses A_____ B_____ of the crime of (here insert the name of the offense, number of the statutory provision and whether felony or misdemeanor), committed as follows:

The said A_____ B_____, on or about the _____ day of _____, _____ (inserting the year) in the county of _____, and State of Iowa, did (here insert the acts or omissions constituting the offense).

_____
County Attorney

State of Iowa
County of _____ ss.

I, _____, being first duly sworn, do depose and say, that I have made full and careful investigation of the facts upon which the above charge is based, and that the allegations contained in the above and foregoing information are true, as I verily believe.

_____

Subscribed and sworn to by _____ before me, the undersigned, this _____ day of _____, _____.

_____
(Here insert title of official before whom verification is made.)

Upon the information shall be endorsed the following:

(a) A true information

_____
County Attorney

(b) Names of witnesses:

_____
_____
_____

(c) On this _____ day of _____, _____ being satisfied from the showing made herein that this cause should (or should not, as the case may be) be prosecuted by information, the same is approved (or disapproved and the charge is ordered submitted to the grand jury, as the case may be).

_____
Judge of District Court

(d) This information duly filed in the district court, this _____ day of _____, _____.

_____
(Clerk of the District Court of _____ County, State of Iowa)
By_____
Deputy Clerk

(e) Bail is hereby fixed on the within information in the sum of $_____.

_____
(Here insert official title of judge or clerk, as case may be)

FORM 9

GENERAL INDICTMENT FORM

IN THE DISTRICT COURT OF IOWA IN AND FOR _____ COUNTY
STATE OF IOWA

vs. INDICTMENT

A_____ B_____

The grand jurors of the county of _____ accuse A_____ B_____ of (here state the offense and whether felony or misdemeanor) in violation of (here state by number the statutory section violated) and charge that the said A_____ B_____ on or about the _____ day of _____, _____, in the county of _____ and State of Iowa, (here briefly insert any particulars of the offense, such as the name of the victim in a criminal homicide case).

A true bill.

/s/_____
Foreman of grand jury

Names of witnesses:

_____

FORM 10

INDICTMENT

(short forms)

The following forms may be used in cases in which they may be applicable:

Abandoning Child: A.B. wrongfully abandoned C.D., a child (or a disabled person) who was in the custody of said A.B.

Arson: A.B. committed arson in the _____ degree upon (a dwelling) the property of C.D. (of a value exceeding $500) (thus endangering E.F.).

Assaults: A.B. assaulted C.D. while participating in (name felony) (thereby causing serious injury to C.D.); A.B. assaulted C.D. and thereby intentionally caused serious injury to C.D.; A.B. administered a harmful substance (name substance) to C.D.

Attempts: A.B. attempted to (state substantive offense).

Bigamy: A.B. committed bigamy by marrying C.D. while said A.B. had a living spouse, D.B.

Bomb threat: A.B. communicated a bomb threat to C.D.

Bribery: A.B. bribed C.D.; A.B. solicited (received) a bribe from C.D. (an elector) (an election official).

Burglary: A.B. committed burglary in the _____ degree upon the property of C.D. (briefly set out circumstances if first degree is charged; e.g., while carrying a dangerous weapon).

Carrying weapon: A.B. carried a concealed weapon; A.B. carried a (describe firearm) within the city limits of (name city); A.B. carried a handgun in a vehicle.

Compounding felony: A.B., knowing that C.D. had committed a felony, compounded that felony.

Conspiracy: A.B. conspired with C.D. to commit (state substantive offense) (a class _____ felony; a _____ misdemeanor).

Criminal mischief: A.B. committed criminal mischief in the _____ degree upon the property of (name owner).

Criminal trespass: A.B. committed criminal trespass upon the property of (name owner) (thus injuring C.D.) (causing more than $100 in damage).

Detention in brothel: A.B. detained C.D. in a brothel.

Disturbance: A.B. willfully disturbed (name body or agency).

Driving under suspension: A.B. operated a motor vehicle while his license was (under suspension) (revoked).

Escape: A.B. escaped from custody: A.B. permitted C.D. to escape from custody.

Extortion: A.B. committed extortion upon C.D.

False imprisonment: A.B. falsely imprisoned C.D.

False information: A.B., while attempting to purchase a handgun, falsely stated (set out false statement); A.B., on an application for a weapons permit, falsely stated (set out false statement).

False report of destructive substance: A.B. falsely reported a bomb to C.D.

False use of financial instrument: A.B. falsely used a financial instrument, to wit: (set out type of instrument).

Falsifying public documents: A.B. falsified public documents; A.B. wrongfully possessed a seal of (name agency).

Feticide: A.B. committed feticide by causing the death of the fetus of C.D.

Fraudulent practices: A.B. committed a fraudulent practice by (state briefly the fraudulent practice).

Furnishing controlled substance: A.B. furnished a controlled substance, to wit: (name controlled substance) to C.D., an inmate of (name institution); A.B. introduced a controlled substance, to wit: (name controlled substance) into (name institution).

Furnishing pornography to minor: A.B. furnished pornography to C.D., a minor.

Going armed with intent: A.B. went armed with intent.

Harassment of public officer: A.B. harassed C.D. (state title or position).

Homicide: A.B. committed homicide in the _____ degree,

resulting in the death of C.D.

Impersonating public official: A.B. falsely impersonated a public official.

Improper voting: A.B. improperly voted (knowing himself not to be qualified) (having already voted once in that election).

Incest: A.B. committed incest with C.D.

Indecent exposure: A.B. indecently exposed himself to C.D.

Insurrection: A.B., acting with C.D. and E.F., participated in an insurrection.

Kidnapping: A.B. committed kidnapping in the _____ degree by kidnapping C.D.

Lascivious acts with a child: A.B. committed lascivious acts with C.D., a child.

Malicious prosecution: A.B. maliciously caused (attempted to cause) the prosecution of C.D.

Nonsupport: A.B. wrongfully refused (or failed) to support C.D., whom A.B. was under a legal obligation to support.

Obstructing prosecution: A.B. obstructed the prosecution of C.D.

OMVUI: A.B. operated a motor vehicle while under the influence of drugs or intoxicants (having been convicted _____ times previously for the offense).

Operating vehicle without consent: A.B. operated C.D.'s vehicle without C.D.'s consent.

Perjury: A.B. committed perjury by testifying (set out substance of testimony).

Pimping: A.B. solicited C.D. as a patron for a prostitute; A.B. knowingly shared in the earnings of C.D., a prostitute; A.B. knowingly furnished a place to be used for prostitution.

Possession of burglary tools: A.B. possessed burglary tools.

Possession of explosive: A.B. possessed (name substance) with the intent to use it to commit a public offense.

Possession of offensive weapon: A.B. had unauthorized

possession of an offensive weapon, to wit: (describe weapon).

Prostitution: A.B. committed prostitution by offering his/her services for sale (or selling his or her services) as a partner in a sex act; A.B. purchased (or offered to purchase) C.D.'s services as a partner in a sex act.

Public display of offensive matter: A.B. publicly displayed offensive matter, to wit: (describe offensive matter).

Reckless endangerment: A.B. recklessly endangered human life or safety (thereby seriously injurying C.D.).

Reckless use of explosive: A.B. recklessly endangered the property or safety of C.D. by A.B.'s use of (name substance).

Riot: A.B., together with C.D. and E.F., participated in a riot.

Risking a catastrophe: A.B. caused (or risked) a catastrophe by: (state nature of activity).

Robbery: A.B. committed robbery in the _____ degree against C.D.

Sexual abuse: A.B. sexually abused C.D. in the _____ degree.

Solicitation: A.B. solicited C.D. to commit (state substantive offense solicited) (a felony) (an aggravated misdemeanor).

Suborning perjury: A.B. suborned C.D. to commit perjury.

Terrorism: A.B. committed terrorism.

Theft: A.B. committed theft in the _____ degree by taking property belonging to C.D. (set out circumstances such as value of property setting degree of theft).

Traps: A.B. set a trap (or spring gun).

A similar short form indictment may be used for offenses not appearing in this table, provided it complies with the requirements of rule four (4), subsection seven (7), Iowa Rules of Criminal Procedure.

Sec. 1302. NEW SECTION. TRIAL OF SIMPLE MISDEMEANORS.

Rule 32. SCOPE. The rules set forth in this section shall apply to trials of simple misdemeanors, and attendant proceedings and to appeals from conviction in such cases.

Rule 33. APPLICABILITY OF DISTRICT COURT RULES. Procedures not provided for herein shall be governed by the provisions of these rules which are by their nature applicable relating to trial of indictable offenses, and by the statutes of the state of Iowa.

Rule 34. TO WHOM TRIED. Judicial magistrates and district associate judges must hear, try and determine all simple misdemeanors. District judges may transfer any simple misdemeanors pending before them to the nearest judicial magistrate or district associate judge.

Rule 35. THE CHARGE. Prosecutions for simple misdemeanors must be commenced by filing a subscribed and sworn to complaint with a magistrate or district court clerk or the clerk's deputy.

Rule 36. CONTENTS OF THE COMPLAINT. The complaint shall contain:

1. The name of the county and of the court where the complaint is filed.

2. The names of the parties, if the defendants be known, and if not, then such names as may be given them by the complainant.

3. A brief and concise statement of the act or acts constituting the offense, including the time and place of its commission as near as may be, and identifying by number the provision of law alleged to be violated.

4. The provisions of section seven hundred sixty-nine point six (769.6) of the Code shall be applicable to the prosecution before a magistrate of cases within the magistrate's jurisdiction.

Rule 37. FILING OF COMPLAINT. The magistrate or district court clerk or the clerk's deputy must file the complaint and mark thereon the time of filing the same.

Rule 38. WARRANT OF ARREST. Immediately upon filing the complaint, the magistrate or district court clerk or the clerk's deputy may issue a warrant of arrest or may issue a citation instead of a warrant for arrest and deliver it to a peace officer.

Rule 39. ARREST. The officer who receives the warrant shall arrest the defendant and bring the defendant before the magistrate without unnecessary delay or serve that citation in the manner provided in chapter two (2), division five (5) of this Act.

Rule 40. PROSECUTION OF CORPORATIONS. In prosecutions against corporations the corporation may be proceeded against by summons as set forth in division seven (VII) of this chapter.

Rule 41. APPEARANCE OF DEFENDANT. When the defendant first appears, the charge against the defendant must be distinctly read to him or her, and a copy given the defendant, and the defendant shall be asked whether he or she is charged under his or her right name. If the defendant objects that he or she is wrongly named in the complaint, the defendant must give his or her right name, and if the defendant refuses to do so, or does not object that he or she is wrongly named, the magistrate shall make an entry thereof in his or her docket, and the defendant is thereafter precluded from making any such objection.

Rule 42. RIGHTS OF DEFENDANT. The court shall inform the defendant:

1. Of the defendant's right to counsel.

2. Of the circumstances under which the defendant might secure pretrial release, and of the defendant's right to review any conditions imposed on his or her release.

3. That the defendant is not required to make a statement and that if he or she does, it may be used against him or her.

In appropriate cases the court shall appoint counsel for an indigent defendant in accordance with procedures established under rule two (2), subdivision three (3). The magistrate shall allow the defendant reasonable time and opportunity to consult with counsel, in the event the defendant expresses a desire to do so.

Rule 43. BAIL. Admission to bail shall be as provided for in division eleven (XI) of this chapter.

Rule 44. PLEA. The defendant shall be required to enter a plea to the complaint, and permissible pleas include those allowed when the defendant is indicted, as set forth in rule eight (8).

Rule 45. TRIAL DATE. Upon a plea other than guilty the magistrate shall set a trial date which shall be at least fifteen days after the plea is entered. The magistrate shall notify the prosecuting attorney of the trial date and shall advise the defendant that the trial will be without a jury unless demand for jury trial is made at least ten days prior to the date set for trial. Failure to make a jury demand in the manner prescribed herein constitutes a waiver of jury. If demand is made, the action shall be tried by a jury of six members. Upon the request of the defendant, the magistrate may set the date of trial at a time less than fifteen days after a plea other than guilty is entered. The magistrate shall notify the defendant that a request for earlier trial date shall constitute a waiver of jury.

Rule 46. CHANGE OF VENUE. A change of place of trial may be applied for in the manner prescribed in rule ten (10), and the papers transmitted in similar manner as described therein to the judicial officer or clerk of the court to which change is allowed.

Rule 47. BAILIFF OBTAINED. If trial by jury is demanded, the magistrate shall notify the sheriff who shall furnish a bailiff at that time and place to act as officer of the court.

Rule 48. SELECTION OF JURY; TRIAL.

1. SELECTION OF PANEL. If a trial by jury is demanded, the magistrate shall notify the clerk of the district court of the time and place of trial. The clerk shall thereupon select by lot fourteen names from the district court jury panel. The clerk shall notify these jurors of the time and place for trial.

2. CHALLENGES. Except where inconsistent with this rule, rule seventeen (17) shall apply, but no challenge to the panel is allowed.

3. COMPLETION OF PANEL. If for any reason the panel as chosen by the clerk becomes insufficient to obtain a jury, the magistrate may direct the officer of the court to summon any bystander or others who may be competent, and against whom no sufficient cause of challenge appears, to act as jurors.

4. STRIKES. If, after all challenges and strikes as noted in rule seventeen (17) have been exercised, the remaining jurors number more than six, the parties shall continue to strike jurors in order, commencing with the defendant, until the panel is reduced to six jurors.

5. ALTERNATE JURORS. No alternate jurors shall be chosen.

6. JURY OF SIX. When six jurors appear and are accepted, they shall constitute the jury.

7. OATH OF JURORS. The magistrate must thereupon administer to them the following oath or affirmation: "You do swear (or, you do solemnly affirm, as the case may be) that you will well and truly try the issue between the state of Iowa and the defendant, and a true verdict give according to the law and evidence."

8. TRIAL. The court shall conduct the trial in the manner of indictable cases in accordance with rule eighteen (18).

9. RECORD. Upon the trial, the judicial magistrate shall make minutes of the testimony of each witness and append the exhibits or copies thereof. The proceedings upon trial shall not be reported, unless a party provides a reporter at such party's expense. By agreement of the parties the magistrate may cause the proceedings upon trial to be reported electronically. If the proceedings are being electronically recorded both parties shall be notified in advance of that recording. If the defendant is indigent and requests that the proceedings upon trial be reported, the judicial magistrate shall cause them to be reported by a reporter, or electronically, at public expense. If the proceedings have been reported electronically the recording shall be retained under the jurisdiction of the magistrate and upon request

shall be transcribed only by a person designated by the court under the supervision of the magistrate. The transcription shall be provided anyone requesting same upon payment of actual cost of transcription or to an indigent defendant as herein above provided.

Rule 49. JUDGMENT. When the defendant is acquitted, he or she must be immediately discharged. When the defendant pleads guilty or is convicted, the magistrate may render judgment thereon as the case may require, being governed by the rules prescribed for the trial of indictable offenses, as far as the same are applicable.

Rule 50. COSTS TAXED TO PROSECUTING WITNESS. If the prosecuting witness fails without good cause to appear or give evidence on the trial, and defendant is discharged on account of such failure, the magistrate may, in his or her discretion, tax the costs of the proceeding against such prosecuting witness and render judgment therefor; and if defendant is acquitted, the magistrate shall, if satisfied that the prosecution is malicious or without probable cause, so tax the costs and render judgment therefor.

Rule 51. SUPPRESSION OF EVIDENCE AND DISPOSITION OF SEIZED PROPERTY. Motions to suppress evidence shall proceed in the manner provided for the trial of indictable offenses, and any property seized dealt with in the manner provided in indictable offenses.

Rule 52. JOINT TRIALS. Unless it shall result in prejudice to a party, the court may order two or more complaints to be tried together if the defendant is the same; or if there is more than one defendant, but all defendants so joined are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses.

Rule 53. FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE. In a specified simple misdemeanor a court may accept a forfeiture of collateral security in lieu of appearance, as a proper disposition of a case, except for nonscheduled traffic

violations. Each judicial district, by action of a majority of the district judges, may determine the misdemeanors subject to such disposition and promulgate by rule a list of same and disseminate to all magistrates in the district. A copy of such rule shall be transmitted to the clerk of the supreme court. Prior to termination of the case by forfeiture under this rule, the defendant must execute a written request for same. Unless vacated upon application within thirty days of the forfeiture, such forfeiture shall constitute a conviction in satisfaction.

Rule 54. APPEALS.

1. NOTICE OF APPEAL. An appeal may be taken by the plaintiff only upon a finding of invalidity of an ordinance or statute. In all other cases, an appeal may only be taken by the defendant and only upon a judgment of conviction. Execution of the 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. The defendant may take an appeal, by giving notice orally to the magistrate that he or she appeals, or by delivering to the magistrate not later than ten days thereafter, a written notice of the defendant's appeal, and in either case the magistrate must make an entry on its docket of the giving of such notice. Payment of fine or service of a sentence of imprisonment does not waive the right to appeal, nor render the appeal moot. When an appeal is taken, the magistrate shall forward to the appropriate district court clerk a copy of the docket entries in the magistrate's court, together with copies of the complaint, warrant, motions, pleadings, the magistrate's minutes of the witness' testimony and the exhibits or copies thereof and all other papers in the case. A district judge shall promptly hear the appeal upon the record thus filed without further evidence. Within ten 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 a part of the record, a transcript of the official report, if any, and, in the event

the report was made electronically, the tape or other medium on which the proceedings were preserved. If the original action was tried before a district judge acting as a judicial magistrate, the appeal shall be to a different district judge. The judge shall decide the appeal without regard to technicalities or defects. Judgment shall be rendered as though the case were being originally tried.

2. BAIL.

a. ADMISSION TO BAIL. Admission to bail shall be as provided for in division eleven (XI) of this chapter. Execution of the judgment shall not be stayed unless the defendant is admitted to bail.

b. OFFICERS AUTHORIZED TO TAKE BAIL. Bail may be taken by the magistrate who rendered the judgment, or by any magistrate in the county of the district court of that county. The magistrate taking bail shall remit it to the clerk of the district court who shall give receipt therefor.

3. COUNSEL. In appropriate cases, the magistrate shall appoint counsel on appeal.

4. APPEAL TO SUPREME COURT. After appeal to a district judge in a nonindictable case, either party may appeal from the judgment of the district judge to the supreme court in the same manner as from a judgment in a prosecution by indictment, and the defendant may be admitted to bail in like manner, and similar proceedings shall be had on the appeal in all respects, as far as applicable. The same proceedings shall be had to carry into effect the judgment of the supreme court upon the appeal as if it had been taken from a judgment prosecuted by indictment.

Rule 55. NEW TRIAL. The magistrate, on motion of a defendant, may grant a new trial pursuant to the grounds set forth in rule twenty-three (23), except that a motion for a new trial based on newly discovered evidence must be made within six months after the final judgment. A motion for a new trial based on the ground of newly discovered evidence may be made only before or within thirty days after final judgment. A motion for a new trial based on any other grounds

shall be made within seven days after a finding of guilty or within such further time as the court may fix during the seven-day period.

Rule 56. CORRECTION OR REDUCTION OF SENTENCE. The magistrate may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence. The magistrate may reduce a sentence within ten days after the sentence is imposed or within ten days after the receipt by the magistrate of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within ten days after entry of any order or judgment of the supreme court denying review of, or having the effect of upholding, a judgment of conviction. The court may also reduce a sentence upon revocation of probation as provided by law.

APPENDIX OF FORMS

(See Rule 30)

FORM A

COMPLAINT

State of Iowa
County of _____

Before (Judge, Magistrate) _____
(insert name of lower court judge or magistrate)

State of Iowa
vs.
A_____ B_____, Defendant

The defendant is accused of the crime of (here name the offense and provide numerical designation), in that the defendant on the _____ day of _____, _____, at the _____ (here locate the city, or township where the offense occurred), in _____ county, did (state the acts or omissions constituting the offense).

/s/_____

FORM B

CONSENT TO FORFEITURE OF COLLATERAL
AS DISPOSITION OF MISDEMEANOR

State of Iowa
County of _____

I, the undersigned, agree to have the amount of $_____ forfeited as a fine and my case terminated. I do this with the following understanding:

1. I have been charged with the offense of _____ _____ (here name the offense and provide numerical designation).

2. I understand my rights, including my right to trial before the court on such charge, and voluntarily waive same, understanding that forfeiture of the aforesaid amount terminates my right to a trial and constitutes a conviction of the offense charged.

_____
(Signature of defendant)

FORM C

NOTICE OF APPEAL TO A DISTRICT COURT JUDGE
FROM A JUDGMENT OR ORDER

State of Iowa
County of _____
State of Iowa
vs. Notice of Appeal
C _____ D_____, Defendant

Notice is hereby given that C_____ D_____ _____, defendant above named, hereby appeals to a district court judge for _____ County (from the final judgment) (from the order) entered in this action on the _____ day of _____, _____.

/s/_____
_____
(Address)
Attorney for C_____ D_____

FORM D

BAIL BOND ON APPEAL TO DISTRICT COURT

State of Iowa
County of _____

A_____ B_____ having been convicted before C_____ D_____, a magistrate of said county, of the crime of (here designate

it generally as in the information), by a judgment rendered on the _____ day of _____, A.D. _____, and having appealed from said judgment to a district court judge of said county:

We, A_____ B_____, and E_____ F_____, hereby undertake that the said A _____ B_____ will appear in the district court of said county on the _____ day of _____ (month), 19___ (year), (which date shall be not more than twenty days after perfection of the undertaking), and submit to the judgment of said court, and not depart without leave of the same, or that we (or I, as the case may be) will pay to the state of Iowa the sum of _____ dollars (the amount of bail fixed).

A_____ B_____
E_____ F_____

Accepted by me, at _____, in the township of _____, this _____ day of _____, A.D. _____.

C_____ D_____
Judicial Magistrate.

Sec. 1303. NEW SECTION. ADDITIONS TO AND AMENDMENT OF RULES. The rules of criminal procedure may be amended, provisions deleted, and new rules added, in the manner prescribed for civil rules under chapter six hundred eighty-four (684) of the Code.

DIVISION XIV

APPEALS IN THE SUPREME COURT

Section 1401. NEW SECTION. DEFINITION OF APPEAL AND DISCRETIONARY REVIEW. For the purposes of this division, unless the context otherwise requires:

1. "Appeal" is the right of both the defendant and the state to have specified actions of the lower court considered by the supreme court.

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.

Sec. 1402. NEW SECTION. 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 court below.

Sec. 1403. NEW SECTION. APPEALS IN CASES INVOLVING MORE THAN ONE DEFENDANT. When defendants are tried jointly, they may seek discretionary review or may appeal separately or they may join. The supreme court may, in the interest of justice, consolidate appeals or applications for discretionary review.

Sec. 1404. NEW SECTION. PERFECTION OF AN APPEAL AND APPLICATION FOR DISCRETIONARY REVIEW. An appeal is perfected by filing a written notice within sixty days after judgment or order with the clerk of the court wherein the judgment or order was issued. Application for discretionary review is made by filing a written notice within ten days after judgment or order with the clerk of the court wherein the judgment or order was issued.

Sec. 1405. NEW SECTION. THE STATE AS APPELLANT OR APPLICANT.

1. 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 quashing an arrest or search warrant.

b. An order suppressing or admitting evidence.

c. An order granting or denying a change of venue.

d. A final judgment or order raising a question of law important to the judiciary and the profession.

Sec. 1406. NEW SECTION. THE DEFENDANT AS APPELLANT OR APPLICANT.

1. Appeal is granted the defendant from:

a. A final judgment of sentence, except in case of simple misdemeanor and ordinance violation convictions.

b. An order for the commitment of the defendant for insanity or drug addiction, or an order for the indeterminate commitment of the defendant as a mentally disordered sex offender.

2. Discretionary review may be available in the following cases:

a. An order suppressing or admitting evidence.

b. An order granting or denying 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.

Sec. 1407. NEW SECTION. DUTY OF CLERK WHEN APPEAL IS PERFECTED OR APPLICATION MADE. When an appeal or an application for discretionary review is filed, the clerk of the court in which the judgment or order was rendered shall:

1. Immediately prepare and transmit to the adverse party and his or her attorney of record, and if the defendant is the moving party, to the attorney general and the clerk of the supreme court, a true copy of the notice of appeal or application, together with the date of filing.

2. Immediately prepare and transmit to the clerk of the supreme court and the attorney general a transcript of all record entries relevant to the appeal or application, together with copies of all papers in the case on file in the clerk's office, except those returned by the examining magistrate on the preliminary examination, all duly certified under seal of his or her court.

Sec. 1408. NEW SECTION. 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.

Sec. 1409. NEW SECTION. INDIGENT'S RIGHT TO TRANSCRIPT ON APPEAL. If a defendant in a criminal cause has perfected an appeal from a judgment against him or her and shall satisfy the judge of the lower court that he or she is indigent, such judge may order the transcript made at the expense of the county where the defendant was tried. When an attorney of record is representing such indigent, said attorney shall make application to the lower court for the transcript.

Sec. 1410. NEW SECTION. INDIGENT'S APPLICATION FOR TRANSCRIPT IN OTHER CASES. If a defendant in a criminal cause has been granted discretionary review from an action of a lower court by the supreme court and the supreme court deems a transcript or portions thereof are necessary to proper review of the question or questions raised, the judge of the lower court shall order the transcript made at the expense of the county where the defendant was tried, if the defendant is indigent.

Sec. 1411. NEW SECTION. INDIGENT'S RIGHT TO COUNSEL. An indigent defendant is entitled to appointed counsel on the appeal of all indictable offenses. Such appointment is subject to the rules and regulations which are or may be promulgated by the supreme court of the state.

Sec. 1412. NEW SECTION. 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.

Sec. 1413. NEW SECTION. 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.

Sec. 1414. NEW SECTION. 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 he acted with his return thereon.

Sec. 1415. NEW SECTION. APPEALS AND APPLICATIONS, WHEN DOCKETED, WHEN DETERMINED. When a proper appeal is perfected in a criminal case and the clerk's transcript of the record as required by section one thousand four hundred seven (1407) of this division is filed in the supreme court, the cause shall be docketed. Such causes shall take precedence over other business and the supreme court shall hear and determine appeals in criminal actions at the earliest time it may be done considering the rights of parties and proper administration of justice. A similar rule shall apply to applications for discretionary review.

Sec. 1416. NEW SECTION. FAILURE OF CLERK TO TRANSMIT PAPERS AS REQUIRED. Failure of the clerk of the district court to transmit all the papers as required in section one thousand four hundred seven (1407) of this division shall not prejudice the rights of the parties.

Sec. 1417. NEW SECTION. PERSONAL APPEARANCE OF THE DEFENDANT. The personal appearance of the defendant in the supreme court on the trial of an appeal, or upon the hearing of a matter of discretionary review, is in no case necessary.

Sec. 1418. NEW SECTION. CLOSING ARGUMENT. The defendant is entitled to close the argument.

Sec. 1419. NEW SECTION. HEARING IN THE SUPREME COURT, RULES OF PROCEDURE. The record and case shall be presented to the supreme court as provided by its rules; and the provisions of law in civil procedure relating to the filing of decisions and opinions of the supreme court shall apply

in such cases.

Sec. 1420. NEW SECTION. 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 supreme court. The supreme court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the lower court judgment. It may also dismiss the appeal or application if it determines that there has been no substantial miscarriage of justice, and no violation of the rights of the accused, and that the arguments do not present definite grounds for a hearing. The supreme court may also order a new trial, or reduce the punishment, but cannot increase it.

Sec. 1421. NEW SECTION. COSTS TO THE SUCCESSFUL DEFENDANT. If on appeal or application by the defendant, the judgment of the trial court is reversed or modified in the defendant's favor, the defendant shall recover the cost of printing abstract and briefs (to a maximum of one dollar per page) to be paid by the county wherein the trial occurred.

Sec. 1422. NEW SECTION. REVERSAL--EFFECT. If a judgment against the defendant is reversed, such reversal shall be deemed an order for a new trial, unless the supreme court shall direct a different disposition. In reversing the case, the supreme 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.

Sec. 1423. NEW SECTION. AFFIRMANCE--EFFECT. On a judgment of affirmance against the defendant, the original judgment shall be carried into execution as the supreme court shall direct.

Sec. 1424. NEW SECTION. DECISION RECORDED AND TRANSMITTED. The decision of the supreme court with any opinion filed or judgment rendered must be recorded by its clerk. After the expiration of the period allowed for a rehearing, or as ordered by the court or provided by its rules, a certified copy of the decision and opinion shall be transmitted to the clerk

of the trial court, filed and entered of record by the clerk.

Sec. 1425. NEW SECTION. JURISDICTION OF APPELLATE COURT CEASES AFTER JUDGMENT. The jurisdiction of the supreme court shall cease after the certified copy of the decision and opinion is transmitted to the clerk of the trial court. All proceedings for executing the judgment shall be had in the trial court or by its clerk.

Sec. 1426. NEW SECTION. JUDGMENT ENFORCED. Unless some proceeding in the district court is directed, a copy of the judgment of the trial court and decision on appeal or review, or of the judgment and decision on appeal or review certified by the clerk of the trial court shall be delivered to the sheriff or proper officer as an execution. He shall be authorized to execute the judgment of the court, or take any legal measures required to bring the action to a conclusion.

Sec. 1427. NEW SECTION. 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 supreme court, shall have the period of his or her former confinement deducted from the period of confinement fixed on the last verdict of conviction by the district court.

DIVISION XV

COSTS OF PROCEEDINGS AND COMPENSATION OF GRAND JURY CLERKS, ATTORNEYS, WITNESSES AND OTHERS

Section 1501. NEW SECTION. COSTS PAYABLE BY STATE IN SPECIAL CASES. All costs and fees, including any award of attorney fees to a court-appointed attorney, incurred in any parole revocation proceedings or in any criminal case brought against an inmate of any state institution for a crime committed while confined in such institution, or for a crime committed by such inmate while placed outside the walls or confines of the institution under the control and direction of a warden, supervisor, officer, or employee thereof, or for a crime committed by such inmate during an escape or other unauthorized departure from such institution or from the control of a warden, supervisor, officer, or employee thereof, wherever the said inmate may have been placed by authorized

personnel thereof, shall be paid out of the state treasury from the general fund in case the prosecution fails, or where such costs and fees, including an award of attorney fees to a court-appointed attorney, cannot be made from the person liable to pay the same, the facts being certified by the clerk of the district court under his or her seal of office to the state comptroller, including a statement of the amount of fees or costs incurred, such statement to be approved by the presiding judge in writing appended thereto or endorsed thereon.

Sec. 1502. NEW SECTION. 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 three (3), rules of criminal procedure.

Sec. 1503. NEW SECTION. WITNESSES CALLED TO COUNTY ATTORNEY INVESTIGATIONS. Witnesses subpoenaed by the county attorney pursuant to rule five (5), rules of criminal procedure, 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.

Sec. 1504. NEW SECTION. SPECIAL WITNESSES FOR INDIGENTS. Witnesses secured for indigent defendants under rule nineteen (19), rules of criminal procedure, must file a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant.

Sec. 1505. NEW SECTION. EXPERT WITNESSES FOR STATE AND DEFENSE. Notwithstanding the provisions of section six hundred twenty-two point seventy-two (622.72) of the Code, reasonable compensation as determined by the court shall be awarded expert witnesses, expert witnesses for indigents referred to in section one thousand five hundred four (1504) of this division, or called by the state in criminal cases.

Sec. 1506. NEW SECTION. 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.

Sec. 1507. NEW SECTION. FEES TO ATTORNEYS. An attorney appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by the district court judge, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. Such attorney need not follow the case into another county or into the supreme court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so his or her fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class A felony cases, two may be authorized.

Sec. 1508. NEW SECTION. SHERIFF'S FEES. For delivering prisoners under the change of venue provisions of rule ten (10), rules of criminal procedure, or transferring prisoners under section four hundred twenty-four (424) of this chapter, sheriffs are entitled to the same fees as are allowed for the conveyance of convicts to the penitentiary.

DIVISION XVI

DOUBLE JEOPARDY

Section 1601. NEW SECTION. 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.

Sec. 1602. NEW SECTION. 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.

Sec. 1603. NEW SECTION. 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 vacated shall the defendant be subsequently prosecuted for a higher degree of the crime for which he or she was originally convicted.

Sec. 1604. NEW SECTION. 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 eighteen (18), rules of criminal procedure, shall be reversed, and the defendant shall first offer his evidence in support of his defense.

DIVISION XVII

SPECIAL POWERS OF POLICE,

GOVERNOR, AND ATTORNEY GENERAL

Section 1701. NEW SECTION. 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 him or her; 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.

Sec. 1702. NEW SECTION. 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.

DIVISION XVIII

INTERSTATE EXTRADITION COMPACT

Section 1801. NEW SECTION. The interstate extradition compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE EXTRADITION COMPACT

The contracting states solemnly agree that:

Sec. 1802. NEW SECTION. The states which are parties to this agreement find that existing extradition procedures are cumbersome, costly and frequently result in unnecessary delay in the extradition of fugitives. They find further that the provisions of the United States Constitution and United States Code relating to extradition are meant to facilitate the return of fugitives; do not prescribe the exclusive means for return of fugitives; and do not prevent the states from establishing other procedures for this purpose.

Sec. 1803. NEW SECTION. As used in this compact, unless

the context clearly requires otherwise:

1. "State" means any 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.

2. "Demanding state" means the state in which a crime has been committed and where a charge has been filed against a fugitive whose return for trial is sought.

3. "Asylum state" means the state in which a person for whom the warrant was issued has been found or arrested and from which the person's return to the demanding state is sought.

4. "Fugitive" means any person who is charged with a crime in the demanding state, or any person who has been convicted of a crime in the demanding state and has escaped from confinement or has broken the terms of his or her bail, probation or parole, and is no longer within the demanding state, whether the person's leaving the demanding state was voluntary or involuntary. For purposes of this division the term "fugitive" further includes a person in the asylum state charged with committing a crime in the demanding state by the doing of an intentional act outside the demanding state which resulted in such crime, as set forth in section one thousand eight hundred fifteen (1815) of this division.

5. "Local prosecuting authority" means the chief prosecuting attorney or his or her designee, of the governmental unit of the demanding state which has jurisdiction over the crime committed by the fugitive. When the return to the demanding state is required of a person who has been convicted of a crime in the demanding state and the fugitive has escaped from confinement or broken the terms of his or her bail, probation or parole, the term "local prosecuting authority" includes the chief prosecuting attorney of the county in which the offense was committed, the parole board, and in the case of escapes the warden of the institution or the sheriff of the county from which the escape was made, and in such cases these officials may make demand for return of the fugitive

in accordance with the provisions of this compact.

6. "Chief law enforcement officer" means county sheriff, chief of police or other chief law enforcement officer in the local governmental unit wherein the fugitive is located, and when the fugitive is confined in a penitentiary or reformatory, it includes the warden or chief administrative officer of that institution.

Sec. 1804. NEW SECTION. The local prosecuting authority of the demanding state shall have the authority to issue a demand for the return of a fugitive. The demand shall be made to a chief law enforcement officer of the local governmental unit in the asylum state where the accused has been found.

Sec. 1805. NEW SECTION. Demand for the extradition of a fugitive under this division shall be in writing or by other official communication setting forth the crime with which the fugitive is charged, or that the fugitive has escaped confinement or broken the terms of his bail, probation, or parole. Said demand shall allege that a crime was committed in the demanding state and that the person sought is a fugitive within the meaning of this compact.

Sec. 1806. NEW SECTION. A chief law enforcement officer of the local governmental unit in the asylum state who receives the demand is authorized to cause the arrest of the fugitive in accordance with the laws of the asylum state.

Sec. 1807. NEW SECTION. When an arrest has been made the fugitive shall be taken for an appearance before a judge of court of record who shall inform the fugitive of the demand made for his or her surrender and of the crime with which he or she is charged, or other reason for the demand as set forth in section one thousand eight hundred fifteen (1815) of this division. Said judge shall apprise the fugitive of the fugitive's legal rights and shall advise said fugitive of the fugitive's right to apply for a writ of habeas corpus.

Sec. 1808. NEW SECTION. If, at the fugitive's appearance, it appears that the person held is the person charged with having committed the crime alleged or has escaped confinement

or broken the terms of his or her bail, probation, or parole and, except in cases arising under section one thousand eight hundred fifteen (1815) of this division, that the fugitive has fled from justice, the judge or magistrate before whom the fugitive is taken must, by warrant reciting the accusation, commit the fugitive to jail. Such commitment shall occur unless the accused give bail as provided in section one thousand eight hundred fourteen (1814) of this division or is otherwise legally discharged. When the accused is confined pursuant to this section, said confinement shall be for the time specified in the warrant, but not exceeding fifteen days, as will enable the arrest of the fugitive to be made under a warrant issued by the authorities of the state having jurisdiction of the crime. If a writ of habeas corpus is applied for, the time established in this section shall be extended until such writ is disposed of.

Sec. 1809. NEW SECTION. The local prosecuting authority of the demanding state shall cause a warrant to be issued to an agent, commanding the agent to receive the fugitive when delivered to the agent and convey the fugitive to the proper officer of the local jurisdiction in the demanding state.

Sec. 1810. NEW SECTION. Said designated agent of the demanding state may at all times enter the asylum state for the purpose of making demand for the surrender of the fugitive. Upon demand and proof of authority, the fugitive shall be released and surrendered to the agent's custody subject to the provisions of sections one thousand eight hundred eleven (1811) and one thousand eight hundred twelve (1812) of this division unless a petition for habeas corpus has been applied for and is pending before the court. All requirements to obtain extradition other than provided in this compact are hereby waived on the part of the state party hereto as to such fugitive.

Sec. 1811. NEW SECTION. If a criminal prosecution has been instituted against the fugitive under the laws of the asylum state and is still pending, the prosecuting authority

of the asylum state in its discretion may either surrender the fugitive on demand or hold the fugitive until he or she has been tried and discharged or convicted and punished in the asylum state.

Sec. 1812. NEW SECTION. When it is desired to have returned to the demanding state a person sentenced in the asylum state with a crime, and such person is imprisoned, the governor of the asylum state may agree with the governor of the demanding state for the extradition of such person before the conclusion of his or her term or sentence upon condition that such person be returned to the asylum state as soon as the prosecution in the demanding state is terminated.

Sec. 1813. NEW SECTION. The guilt or innocence of the fugitive as to the crime of which he or she is charged is not reviewable by any official of the asylum state or in any proceeding in the asylum state after the demand for extradition. When a habeas corpus hearing is held pursuant to section one thousand eight hundred five (1805) of this division, the judge shall cause to be presented to the fugitive a certified copy of the indictment found or information from the state having jurisdiction of the crime, or a copy of any warrant which was issued thereupon; or a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the local prosecuting authority of the demanding state that the fugitive has escaped from confinement or has broken the terms of his or her bail, probation or parole. Notice of such habeas corpus hearing including the time and place thereof shall be given to the local prosecuting authority of the demanding state.

Sec. 1814. NEW SECTION. Unless the crime with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the demanding state, a judge or magistrate in the asylum 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. In the event of a violation of the conditions of said bond, forfeiture thereof and recovery thereon may be had as in the case of appearance bonds given by accused persons in criminal proceedings in the asylum state.

Sec. 1815. NEW SECTION. A chief law enforcement officer of the local governmental unit in the asylum state may surrender, on demand of the local prosecuting authority of the demanding state, any person in the asylum state charged in the demanding state in the manner provided in section one thousand eight hundred five (1805) of this division with committing an act in the asylum state, or in a third state, intentionally resulting in a crime in the demanding state. The provisions of this compact not otherwise inconsistent shall apply to such cases, even though the accused was not in the demanding state at the time of the commission of the crime, and has not fled therefrom.

Sec. 1816. NEW SECTION. The expenses incurred in extradition shall be assessed to the governmental unit of the demanding state seeking the return of the fugitive, but this provision shall not be construed to alter or affect any internal arrangements between a party state and its subdivisions as to the payment of costs or responsibilities therefor. These expenses shall include fees paid to the officers of the asylum state and all necessary and actual traveling expenses incurred in returning the prisoner.

Sec. 1817. NEW SECTION. Each state party to this compact 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 compact, and who shall provide, within and without the state, information necessary to the effective operation of this compact.

Sec. 1818. NEW SECTION. The governor of this state shall appoint an administrator of interstate extradition to serve in such capacity for a period and under terms determined by

the governor. Said administrator shall fulfill the duties set forth in section one thousand eight hundred seventeen (1817) of this division and such other necessary duties as may be required for the administration of this compact.

Sec. 1819. NEW SECTION. This compact 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 compact 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 at the time such withdrawal takes effect.

Sec. 1820. NEW SECTION. This compact provides an alternate procedure to the uniform criminal extradition act, which remains in full force and effect; a state seeking return of a fugitive may proceed under this compact, or under the uniform criminal extradition act. Where another state seeks return of a fugitive under this compact, the governor of this state may intervene at any time prior to surrender of the fugitive and require the proceedings to be stayed subject to investigation and appropriate orders relating to custody of the fugitive by the governor.

Sec. 1821. NEW SECTION. This compact shall be liberally construed so as to effectuate its purposes. 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 party 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 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 party hereto, 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.

Sec. 1822. NEW SECTION. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the interstate extradition compact and to cooperate with one another and with other party states in enforcing the compact and effectuating its purpose.

Sec. 1823. NEW SECTION. Copies of this division 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.

Sec. 1824. NEW SECTION. This compact may be cited as the interstate extradition compact.

DIVISION XIX

UNIFORM ACT TO SECURE WITNESSES FROM WITHOUT THE STATE

Section 1901. NEW SECTION. 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 his presence will be required for a number of days which shall be specified in such certification.

3. The certification described in subsection two (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 three (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 two (2) and three (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.

Sec. 1902. NEW SECTION. 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.

Sec. 1903. NEW SECTION. FEES AND ENFORCEMENT OF ORDER. A witness named in an order described in section one thousand nine hundred two (1902) of this division shall be entitled to ten cents per mile for each mile traveled by the most direct route to and from the proceedings the witness is required to attend, and shall also be entitled to ten dollars per day for each day spent in such travel or in attending the proceedings as a witness. Such amounts shall, upon proper claim being made, be paid from the court expense fund of the county.

If such witness fails without good cause to attend and testify as directed by such order the witness shall forfeit his or her right to receive mileage and per diem, and shall

be guilty of contempt of court for which he or she may be punished accordingly.

Sec. 1904. NEW SECTION. EXEMPTIONS; ARREST, SERVICE OF PROCESS. 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.

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.

Sec. 1905. NEW SECTION. STATE. The word "state" shall include any state or territory of the United States and the District of Columbia.

CHAPTER 3

DIVISION I

JUDGMENT AND SENTENCING PROCEDURES

Section 101. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the "Iowa Corrections Code".

Sec. 102. NEW SECTION. PRESENTENCE INVESTIGATION. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of any public offense may be rendered, the court shall receive from the state 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, and, if the offense is a felony, shall order that a presentence investigation be made. If the offense is not a felony, the court may, in its discretion, order that a presentence investigation be made whenever the maximum period of confinement which may be imposed is in excess of thirty days.

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 or suspension of sentence and probation. The investigation shall be made by the probation and parole service, or by another appropriate agency as determined by the court.

Sec. 103. NEW SECTION. REPORT OF INVESTIGATION. Whenever a presentence investigation is ordered by the court, the investigator shall promptly inquire into: the defendant's characteristics, family and financial circumstances, needs, and potentialities; the defendant's criminal record and social history; the circumstances of the offense; the time the defendant has been in detention; and the harm to the victim, the victim's immediate family, and the community. 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. With the approval of the court, a physical examination of the defendant may be ordered, or the defendant may be committed to a psychiatric facility for an evaluation of his or her personality and mental health. The results of any such examination shall be included in the report of the investigator.

Sec. 104. NEW SECTION. REPORT CONFIDENTIAL. The court may, in its discretion, make the presentence investigation report or parts of it available to the defendant, or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of any medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. Such reports shall be part of the record but shall be sealed and opened only on order of the court. In any case where the defendant is committed to the custody of the division of adult corrections, a copy of the presentence investigation report shall be sent to the director at the time of commitment.

Sec. 105. NEW SECTION. PRONOUNCING JUDGMENT AND SENTENCE.

After receiving and examining all pertinent information, including the presentence investigation report, 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 seven hundred two (702) of this chapter, the court may defer judgment and sentence for an indefinite period in accordance with division seven (VII) of this chapter.

2. If the defendant is neither a dangerous offender nor an incorrigible offender as defined by sections two hundred eight (208) and two hundred ten (210) of this chapter, 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 division seven (VII) of this chapter.

4. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both.

Sec. 106. NEW SECTION. 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 under which the defendant is sentenced and a statement of the days credited pursuant to section two hundred forty-six point thirty-eight (246.38) of the Code shall be incorporated into the sentence.

Sec. 107. NEW SECTION. COMMITMENT. 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 division of adult corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of such commitment. The court shall make such order as is appropriate for the temporary custody of the defendant pending the defendant's transfer to the custody of the director.

DIVISION II

FELONIES

Section 201. NEW SECTION. CLASS A FELONY. 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 division of adult corrections for the rest of his life. Nothing in this chapter pertaining to deferred judgment, suspended sentence or probation shall apply to a class A felony, and no person convicted of a class A felony shall be released on parole unless the governor commutes the sentence to a term of years.

Sec. 202. NEW SECTION. RECORD REVIEWED. The board shall interview a class A felon within five years of his or her confinement and regularly thereafter. If, in the opinion of the board, the person should be considered for release on parole, the board shall recommend to the governor that the person's sentence be commuted to a term of years. If the person's sentence is so commuted, the person shall be eligible for parole as provided in division six (VI) of this chapter.

Sec. 203. NEW SECTION. INDETERMINATE SENTENCE. When a judgment of conviction of a felony other than a class A felony is entered against any person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the division of adult corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by section two hundred nine (209) of this division nor shall the term be less than the

minimum term imposed by law, if a minimum sentence is provided.

Sec. 204. NEW SECTION. RECONSIDERATION OF SENTENCE. For a period of ninety days from the date when a person convicted of a felony, other than a class A felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the commissioner of social services, 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 court's final order in any such proceeding shall be delivered to the defendant personally or by certified mail. Such action is discretionary with the court, and its decision to take such action or not to take such action is not subject to appeal. The provisions of this section notwithstanding, for the purposes of appeal, a judgment of conviction of felony is a final judgment when pronounced.

Sec. 205. NEW SECTION. PLACE OF CONFINEMENT. The director of the division of adult 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.

Sec. 206. NEW SECTION. RELEASE ON PAROLE. A person who has been committed to the custody of the director of the division of adult corrections shall remain in such custody until his or her release by the order of the board of parole, in accordance with the law governing paroles, or until the maximum term of the person's confinement, as fixed by law, has been completed.

Sec. 207. NEW SECTION. MINIMUM SENTENCE--USE OF A FIREARM. 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 he or she was in the immediate possession and control of a firearm, displayed a firearm in a threatening manner, or was armed with a firearm 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 pursuant to this section shall not be eligible for parole until he or she has served the minimum sentence of confinement imposed by this section.

Sec. 208. NEW SECTION. HABITUAL OFFENDERS. An 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 his or her conviction. A person sentenced as an habitual offender shall not be eligible for parole until he or she has served the minimum sentence of confinement of three years.

Sec. 209. NEW SECTION. MAXIMUM TERMS OF IMPRISONMENT. 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:

1. A class B felon shall be confined for no more than twenty-five years.

2. An habitual offender shall be confined for no more than fifteen years.

3. A class C felon, not an habitual offender, shall be confined for no more than ten years, and in addition may be sentenced to a fine of not more than five thousand dollars.

4. A class D felon, not an habitual offender, shall be confined for no more than five years, and in addition may be sentenced to a fine of not more than one thousand dollars.

Sec. 210. NEW SECTION. APPLICATION FOR COMMITMENT. For the purposes of Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-nine (139), section six (6), the director of the division of corrections shall be considered an interested person and all applicable provisions of Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-nine (139), relating to involuntary hospitalization, shall apply to any persons who

have been committed to the custody of the division of corrections as a result of a conviction of a public offense.

DIVISION III

MISDEMEANORS

Section 301. NEW SECTION. SENTENCE FOR MISDEMEANOR. When a person is convicted of a misdemeanor and a specific penalty is not provided for, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

1. For an aggravated misdemeanor, imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both.

2. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

3. For a simple misdemeanor, imprisonment not to exceed thirty days, or a fine not to exceed one hundred dollars.

Sec. 302. NEW SECTION. RECONSIDERATION OF 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 court's final order in any such proceeding shall be delivered to the defendant personally or by certified mail. Such action is discretionary with the court and its decision to take such action or not to take such action is not subject to appeal. The provisions of this section notwithstanding, for the purposes of appeal a judgment of conviction is a final judgment when pronounced.

Sec. 303. NEW SECTION. WORK-RELEASE. The court may direct that a prisoner, sentenced to confinement for ninety days or less, be released from custody during specified hours, as provided by sections three hundred fifty-six point twenty-six (356.26) through three hundred fifty-six point thirty-six (356.36) of the Code.

Sec. 304. NEW SECTION. 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. All persons sentenced to confinement for a period of more than one year shall be committed to the custody of the director of the division of adult corrections to be confined in a place to be designated by the director and the cost of such 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 such units for the confinement of such persons.

Sec. 305. NEW SECTION. LOCAL FACILITIES PREFERRED. 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.

Sec. 306. NEW SECTION. 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.

DIVISION IV

BOARD OF PAROLE

Section 401. NEW SECTION. BOARD OF PAROLE. The board of parole shall consist of five electors of the state. Not more than three members shall belong to the same political party. At least two members shall be practicing attorneys-at-law at the time of appointment. Each member shall serve for five years from July first of the year of appointment, except appointees to fill vacancies who shall serve for the balance of the unexpired term. The chairperson of the board shall be elected by the members of the board to a term of one year and may serve more than one term. A majority of the members of the board shall constitute a quorum to transact business.

Sec. 402. NEW SECTION. APPOINTMENT. The governor shall, during each regular session of the general assembly and within sixty days after the convening thereof, appoint, with the approval of two-thirds of the members of the senate, a successor to that member of the board whose term will expire on July 1 following. Appointments may be made when the general assembly is not in session, to fill vacancies, but such appointments shall be subject to the approval of two-thirds of the members of the senate when next in session. Vacancies occurring during a session of the general assembly shall be filled as regular appointments are made and before the end of said session, and for the unexpired portion of the regular term.

Sec. 403. NEW SECTION. TRANSITION. Persons serving on the board of parole on June 30, 1978 shall continue as members of the board of parole until they have served the term for which they were appointed with the conditions and salary of the initial appointment, and shall be deemed to fill a membership position as provided by section four hundred one (401) of this division. Initial appointment to fill the additional membership positions created by section four hundred one (401) of this division shall serve as follows:

1. One member shall serve until June 30, 1980.
2. The other member shall serve until June 30, 1983.

Sec. 404. NEW SECTION. EXPENSES OF MEMBERS. Each member of the board, the executive secretary, and all other employees shall, in addition to salary, be entitled to receive their necessary maintenance and traveling expenses while engaged in official business.

Sec. 405. NEW SECTION. ADMINISTRATION. The board of parole shall be responsible directly to the governor. The board of parole shall appoint an executive secretary and employ a clerical staff sufficient to carry on the necessary duties of the board. The board shall employ not less than four persons who shall serve as liaison personnel between the board, inmates and staff at the state's penal and correctional facilities and who shall perform other duties

designated by the board of parole. The board shall submit to the state comptroller an estimate of the funds needed for salaries, maintenance, and office supplies at the time and in the manner provided by section eight point twenty-three (8.23) of the Code.

DIVISION V

PROBATION AND PAROLE SERVICE

Section 501. NEW SECTION. PROBATION AND PAROLE SERVICE. Pursuant to designation by the court, parole and probation services shall be provided by the department of social services or by a local agency established under chapter two hundred seventeen (217) of the Code. Parole and probation officers shall perform the duties assigned to them by law and by the director of the agency by which they are employed.

Sec. 502. NEW SECTION. PAROLE AND PROBATION OFFICERS. Parole and probation officers, while performing their duties as such, are peace officers and have all of the powers and authority of peace officers. Parole and probation officers shall investigate all persons referred to them for investigation by the chief parole officer or by any court to which they may be assigned. 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 him or her to bring about improvement in his or her conduct or condition. Parole and probation officers shall keep records of their work, shall make reports as required by the court, and shall perform other such duties as may be assigned to them by the chief parole officer or the court. 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.

Sec. 503. NEW SECTION. PAROLE RELIEF FUND. There is hereby established, from any unappropriated funds in the state treasury, a fund of twelve hundred fifty dollars which shall be known as the parole relief fund. The treasurer of the

state shall continue to maintain said fund in said amount. Said fund may be used for the relief of paroled prisoners who are in distress because of illness, loss of employment, or conditions creating personal need. In no instance shall the total amount advances to a prisoner exceed one hundred dollars. The prisoner, at the time of receiving an advancement, shall execute and deliver to his or her parole officer his or her written obligation to repay the same during the period of the prisoner's parole. When so paid, the amount shall be deposited with the treasurer of the state and credited to the fund from which drawn. Such fund shall be drawn on vouchers executed by the director of the bureau of adult corrections in favor of said needy person. Each voucher shall show that the advancement was ordered by the chief parole officer.

Sec. 504. NEW SECTION. LOCAL PROBATION AND PAROLE SERVICES AUTHORIZED. The district court in any judicial district may designate any person or agency to perform the functions of the probation and parole services as to any person not under the supervision of the department of social services and subject to the jurisdiction of that court. The probation and parole services may cooperate with and use the facilities of any such local agency when authorized to do so by the commissioner of social services.

DIVISION VI

PAROLES

Section 601. NEW SECTION. PAROLE. Parole is the release of a person who has been committed to the custody of the commissioner of social services by reason of the person's commission of a public offense prior to the expiration of the person's term, subject to supervision by the department of social services and on conditions imposed by the department.

Sec. 602. NEW SECTION. AUTHORITY OF PAROLE BOARD. The board of parole shall promulgate regulations regarding a system of paroles from correctional institutions, and shall direct, control, and supervise the administration of such system of paroles. The board shall determine which of those

persons who have been committed to the custody of the director of the division of adult corrections, by reason of their conviction of a public offense, shall be released on parole.

Sec. 603. NEW SECTION. STANDARDS FOR RELEASE ON PAROLE. A parole shall be ordered only for the best interest of society, not as an award of clemency. The board shall release on parole any person whom it has the power to so release, when in its opinion there is reasonable probability that such person can be released without detriment to the community or to himself or herself. A person's release is not a detriment to the community or the person when he or she is able and willing to fulfill the obligations of a law-abiding citizen, as the board shall determine.

Sec. 604. NEW SECTION. PAROLE PROCEDURE. Within one year after the commitment of any person other than a class A felon to the custody of the director of the division of adult corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider his or her prospects for parole. At such time, the board shall consider all pertinent information regarding this person, including the circumstances of the person's offense, any presentence report which may be available, the previous social history and criminal record of such person, the person's conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the defendant has served at least one-half of the maximum term of his sentence. Every person while on parole shall be under the supervision of the department of social services, which shall prescribe regulations for governing persons on parole. The board may adopt such other rules not inconsistent with the above as it may deem proper or necessary for the performance of its functions.

Sec. 605. NEW SECTION. INFORMATION FROM CORRECTION PERSONNEL. It shall be the duty of all persons employed in any correctional institution to 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 under this Act, to provide for the board or such representatives facilities for communicating with and observing such person, and to furnish to the board such reports as the board shall require 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.

Sec. 606. NEW SECTION. INFORMATION FROM OTHER SOURCES. 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.

Sec. 607. NEW SECTION. 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 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.

Sec. 608. NEW SECTION. 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, money in accordance with the following schedule:

1. Upon discharge or parole, one hundred dollars.
2. Upon being placed on work release, fifty dollars.
3. Upon going from an educational work release to parole or discharge, fifty dollars.

Those inmates receiving payment under subsections two (2) or three (3) of this section shall not be eligible for payment under subsection one (1) of this section unless they are returned to the institution. The warden or superintendent shall maintain an account of all funds expended pursuant to this section.

Sec. 609. NEW SECTION. ASSIGNMENT TO PAROLE OFFICER. A person released on parole shall be assigned to a parole officer by the chief parole officer. Both the person and his or her parole officer shall be furnished with the conditions of his or her parole and the regulations which the person will be required to observe, in writing. The parole officer shall explain these conditions and regulations to the person, and supervise, assist, and counsel the person during the term of his or her parole.

Sec. 610. NEW SECTION. PAROLE OUTSIDE STATE. 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 and regulations as the board of parole may impose.

Sec. 611. NEW SECTION. 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 proba-

tion and for the reciprocal return of such persons to the contracting states for violation of the terms of their parole or probation.

Sec. 612. NEW SECTION. DETAINERS. 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.

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 his or her trial.

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 his or her trial, the detainer shall be held to be invalid and the parole board shall disregard such detainer in considering a prisoner for parole.

Sec. 613. NEW SECTION. DISCHARGE FROM PAROLE. Unless sooner discharged, a person released on parole shall be discharged when his or her 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 it shall determine that any person on parole is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, it shall discharge the person from parole. In either event, discharge from parole shall

terminate the person's sentence.

Sec. 614. NEW SECTION. PAROLE TIME COUNTED. The time when a prisoner is on parole from the institution shall be held to apply upon the sentence against the parolee even if the parole is subsequently revoked, except that the time when the parolee is in violation of the terms of his parole agreement shall not apply upon the sentence.

The time when a prisoner is absent from the institution by reason of an escape shall not apply upon the sentence against the prisoner.

DIVISION VII

DEFERRED JUDGMENTS, SUSPENDED SENTENCES AND PROBATION

Section 701. NEW SECTION. PROBATION. Probation is the procedure under which a defendant, against whom a judgment of conviction of a public offense may be entered, is released by the court subject to supervision by probation and parole services.

Sec. 702. NEW SECTION. DEFERRED JUDGMENT OR SUSPENDED SENTENCE. Pursuant to section one hundred five (105) of this chapter, 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 either of the options contained in subsections one (1) and two (2) of this section. However, this section shall not apply to a forcible felony or a violation of section two hundred four point four hundred one (204.401), subsection one (1) or two (2) of the Code, to which section two hundred four point four hundred nine (204.409), subsection two (2) of the Code is not applicable and which is not proved to be an accommodation offense under section two hundred four point four hundred ten (204.410) of the Code.

1. With the consent of the defendant, the court may defer judgment and place the defendant on probation upon such conditions as it may require, or defer sentence and place the defendant as provided in section seven hundred nine (709) of this division. Upon fulfillment of the conditions of probation the defendant shall be discharged without entry

of judgment. Upon violation of the conditions of probation, the court may proceed as provided in division eight (VIII) of this chapter.

However, this subsection shall not apply if any of the following is true:

a. The offense is a violation of section nine hundred eight (908) of the Iowa Criminal Code and the child is twelve years of age or under.

b. The defendant is a dangerous offender as defined in section two hundred eight (208) of this chapter.

c. 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 he or she was convicted at the time of the defendant's conviction.

d. 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.

e. 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.

2. 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.

Sec. 703. NEW SECTION. DEFERRED JUDGMENT DOCKET. Any deferment of judgment under this subsection shall be reported promptly to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment

against the defendant. The permanent record provided for in this subsection shall constitute a confidential record exempted from public access under section sixty-eight A point seven (68A.7) of the Code and shall be available only to justices of the supreme court, district judges, district associate judges, and judicial magistrates requesting information pursuant to this subsection.

Sec. 704. NEW SECTION. STANDARDS FOR RELEASE ON PROBATION. Before deferring judgment 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 the age of the defendant; the defendant's prior record of convictions and prior record of deferments of judgment if any; the defendant's employment circumstances; the defendant's family circumstances; the nature of the offense committed; and such other factors as are appropriate. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment or to suspend sentence, and its decision on the length of probation.

Sec. 705. NEW SECTION. CONDITIONS OF PROBATION. The court, in ordering probation, may impose any reasonable rules and conditions which will promote rehabilitation of the defendant and protection of the community, including adherence to regulations generally applicable to persons released on parole.

Sec. 706. NEW SECTION. LENGTH OF PROBATION. The length of the probation shall be for such term as the court may 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.

If the person is ordered placed under the custody, care and supervision of the probation and parole service, the term of probation shall be determined by the board of parole and the probation of the defendant shall be supervised by the probation and parole service. The length of the probation

shall not be less than one year and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled, as provided in section seven hundred eight (708) of this division.

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.

Sec. 707. NEW SECTION. SUPERVISION DURING PROBATIONARY PERIOD. A person released on probation shall be assigned to a parole officer. Both the person and his or her parole officer shall be furnished with the conditions of the person's probation and the regulations which the person will be required to observe, in writing. The parole officer shall explain these conditions and regulations to the person, and shall supervise, assist, and counsel the person during the term of his or her probation.

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 any local agency established under chapter two hundred seventeen (217) of the Code; or

3. Of the probation and parole service. The chief parole officer may also accept the custody, care and supervision of any person granted probation or parole from a sentence to a term in a county jail. Jurisdiction of these persons shall remain with the sentencing court. The chief parole officer shall not, however, accept the custody, care and supervision of any person who in the chief probation officer's judgment could not be properly supervised.

In each case wherein the court shall order said person committed to the custody, care, and supervision of the probation and parole service, the clerk of the district shall

at once furnish the chief parole officer 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 chief parole officer, by letter, that the defendant has been placed under the supervision of the probation and parole service and give to the chief parole officer 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 probation and parole service for the defendant's employment and he or she 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 his or her whereabouts.

Sec. 708. NEW SECTION. DISCHARGE FROM PROBATION. At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of any person from probation. At the expiration of the period of probation, in cases where the court fixes the term of probation, the court shall order the discharge of such person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to such person. A person who has been discharged from probation shall no longer be held to answer for his or her offense. Upon discharge from probation, if judgment has been deferred under section seven hundred two (702) of this division, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the supreme court administrator as required by section seven hundred three (703) of this division shall not be expunged. The court's record shall never be expunged in any other circumstances except as provided in

section six hundred two point fifteen (602.15) of the Code.

Sec. 709. NEW SECTION. LOCAL CORRECTIONAL PROGRAM. The court shall retain jurisdiction over any person assigned to a local correctional agency until such time as that person shall be withdrawn from the program by the court. Upon a showing that such person is not cooperating with the program, or is not responding to it, the court may withdraw the person from the program and impose any sentence authorized by law. Before taking such action, the court shall give the person an opportunity to be heard on any matter relevant to the proposed action.

Sec. 710. NEW SECTION. RELEASE AFTER COMPLETION. When the court has determined that any person ordered to participate in a locally administered correctional program has successfully completed such program, the court shall order such person to be released on probation. The provisions of sections six hundred three (603) through six hundred eight (608), inclusive, of this chapter, shall apply to such release.

Sec. 711. NEW SECTION. 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.

Sec. 712. NEW SECTION. RESTITUTION.

1. As used in this section, unless the context otherwise requires:

a. "Victim" means any person who has suffered pecuniary damages as a result of the defendant's criminal activities. However, with respect to any part of a victim's pecuniary damages paid by an insurer, the insurer shall be regarded as the victim only if the insurer has no right of subrogation and the insured has no duty to pay the proceeds of restitution to the insurer.

b. "Pecuniary damages" means all damages which a victim could recover against the defendant 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.

c. "Criminal activities" includes any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered and any other crime committed after July 1, 1972 which is admitted or not contested by the defendant, whether or not prosecuted. However, "criminal activities" does not include misdemeanors under chapter three hundred twenty-one (321) of the Code.

d. "Restitution" means full or partial payment of pecuniary damages to a victim.

2. It is the policy of this state that restitution be made by each violator of the criminal laws to the victims of his or her criminal activities to the extent that the violator is reasonably able to do so. This section shall be interpreted and administered to effectuate this policy.

3. If the trial court exercises either of the sentencing options under section seven hundred two (702) of this division, the court shall require as a condition of probation that the defendant, in cooperation with the probation officer assigned to the defendant, promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is presently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during his probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that he or she will not be able to make any restitution, the defendant shall so state and shall specify the reasons. If the defendant believes that no person suffered pecuniary damages as a result of the defendant's criminal activities, he or she shall so state.

4. The defendant's plan of restitution and the comments of the defendant's probation officer shall be submitted promptly to the court. The court shall promptly enter an

order approving the plan or modifying it and providing for restitution payments to the extent that the defendant is or may become reasonably able to make restitution, taking into account the factors enumerated in subsection five (5) of this section. Compliance with the plan of restitution as approved or modified by the court shall be a condition of the defendant's probation. Restitution payments shall be made to the clerk unless otherwise directed by the court. The court thereafter may modify the plan at any time upon the defendant's request or upon the court's own motion. If the plan as approved or modified does not require full payment of pecuniary damages to all victims, or if the court determines that the defendant is not able and will not be able to make any restitution at any time during the defendant's probation period or that no person suffered pecuniary damages as a result of the defendant's criminal activities, the court shall file a specific written statement of its reasons for and the facts supporting its action or determination.

5. The probation officer when assisting the defendant in preparing the plan of restitution, and the court before approving or modifying the plan of restitution, shall consider the physical and mental health and condition of the defendant, the defendant's age, the defendant's education, the defendant's employment circumstances, the defendant's potential for employment and vocational training, the defendant's family circumstances, the defendant's financial condition, the number of victims, the pecuniary damages of each victim, what plan of restitution will most effectively aid the rehabilitation of the defendant, and such other factors as shall be appropriate. The probation officer shall attempt to determine the name and address of each victim and the amount of his or her pecuniary damages.

6. The clerk shall mail to each known victim a copy of the court's order approving or modifying the plan of restitution, including the court's statement, if any, under subsection four (4) of this section.

7. 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 restitution.

8. Failure of the defendant to comply with subsection three (3) of this section or to comply with the plan of restitution 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 restitution or extend the period of time for restitution, but not beyond the maximum probation period specified in section seven hundred six (706) of this division.

9. This section and proceedings under this section shall not limit or impair the rights of victims to sue and recover damages from the defendant in a civil action. However, any restitution payment by the defendant 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. The fact that restitution was required or made shall not be admissible as evidence in a civil action unless offered by such defendant.

DIVISION VIII

VIOLATIONS OF PAROLE OR PROBATION

Section 801. NEW SECTION. ARREST OF PAROLE VIOLATOR. A parole officer having probable cause to believe that any person released on parole has violated the conditions of his or her parole may arrest such person, or the parole officer may make a complaint before a magistrate, charging such violation, and if it appears from such complaint, or from affidavits filed with it, that there is probable cause to believe that such person has violated the terms of his or her parole, the magistrate shall issue a warrant for the arrest of such person.

Sec. 802. NEW SECTION. INITIAL APPEARANCE. 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 that time the alleged parole violator shall be furnished with a written notice of the claimed violation, shall be advised of his or her right to appointed counsel under rule twenty-six (26) of the rules

of criminal procedure, and shall be given notice that a hearing will take place and that its purpose is to determine whether there is probable cause to believe that he or she has committed a parole violation.

The magistrate may order the alleged parole violator confined in the county jail or may order the alleged parole violator released on bail under such terms and conditions as the magistrate may require. Admittance to bail is discretionary with the magistrate and is not a matter of right.

Sec. 803. NEW SECTION. PLACE OF PROBABLE CAUSE HEARING. The probable cause hearing shall be held in the same county as the alleged parole violator had his or her initial appearance. The clerk of court shall provide a room suitable for the probable cause hearing.

Sec. 804. NEW SECTION. PROBABLE CAUSE HEARING. At the probable cause hearing, a magistrate shall determine whether there is probable cause to believe that the alleged parole violator has violated his or her parole. The alleged parole violator shall be informed of the evidence against him or her. The alleged parole violator shall be given an opportunity to be heard in person and to present witnesses and other evidence on his or her behalf. The alleged parole violator shall have the right to confront and cross-examine those furnishing evidence against him or her, except where the magistrate finds that a witness would be subjected to risk or harm if the witness' identity were disclosed.

Sec. 805. NEW SECTION. WAIVER OF PROBABLE CAUSE HEARING. The alleged parole violator may waive the probable cause hearing, in which event the magistrate shall proceed as upon a finding of probable cause. Before accepting a waiver of hearing, the magistrate shall inform the alleged violator of the charge against him or her, of the alleged violator's right to a hearing to determine whether there is probable cause to believe that he or she has violated his or her parole, and that if the alleged violator waives the hearing that he or she will be committed to the custody of the department

of social services without further proceedings, to await the determination of his future status by the parole board. The magistrate shall make a verbatim record of the proceedings in which the hearing is waived.

Sec. 806. NEW SECTION. DISPOSITION BY MAGISTRATE. If it appears from the evidence that there is no probable cause to believe that the arrested person has violated the conditions of his or her parole, the magistrate shall order the arrested person to be released from custody and continued on parole. If it appears that there is probable cause to believe that the arrested person has violated the conditions of his or her parole, the magistrate shall commit the arrested person to the custody of the department of social services, and the procedure prescribed in section one hundred seven (107) of this chapter shall apply to such commitment; or the magistrate may admit the arrested person to bail as provided in section eight hundred two (802) of this chapter. The magistrate shall make a summary of the testimony and other evidence considered by the liaison officer and a statement of the facts relied on by the liaison officer as a basis for his or her finding of probable cause or no probable cause, and shall without delay forward them together with all documents relating to the matter to the executive secretary of the parole board. If the alleged parole violator has waived the probable cause hearing, the verbatim record of that proceeding shall be forwarded in lieu of the summary of evidence and statement of facts.

Sec. 807. NEW SECTION. ACTION BY PAROLE BOARD. Upon a finding of probable cause to believe that a parole violation has occurred, the board of parole shall proceed without unreasonable delay to hear the charge of parole violation. Upon receipt of the record prepared and forwarded by the magistrate, the board shall fix a time and place for such hearing and shall notify in writing the alleged violator, his attorney of record, if any, and the department of social services of such hearing and the claimed violation of parole. The alleged violator shall be given an opportunity to be heard by the

board under such rules as the board shall adopt. The inquiry shall be limited to the following two matters: 1. Did the alleged parole violation actually occur? 2. If the violation did occur, should the violator's parole be revoked? If the board determines that the parole should be revoked, it shall make an order revoking the parole. The board shall furnish the violator with a written statement of the facts relied upon to establish a violation and the reasons for revoking parole.

Sec. 808. NEW SECTION. PROCEEDING WITHOUT ARREST. The board of parole may receive from a parole officer a charge or complaint of parole violation against any parolee and may proceed to a hearing on such charge in any case where the alleged violator has not been arrested or has been arrested and discharged by the magistrate on a finding of no probable cause. The presence of the alleged violator at such hearing shall be secured by summons. A statement of the charge against the alleged violator shall accompany the summons, and his or her parole officer shall give the alleged violator such assistance as he or she may need to get to the place of the hearing. Travel expenses, if any, shall be paid by the board. If he or she fails without good cause to appear as commanded by the summons, such failure shall be considered a violation of the parole and the board may proceed to revoke his or her parole. If the parole is revoked, the board shall issue a warrant for his or her arrest and return to the custody of the department of social services. Upon his or her return to custody, the board shall give him or her an opportunity to present any matters in defense or mitigation of his conduct if he so requests.

Sec. 809. NEW SECTION. DISPOSITION OF VIOLATOR. If the parole of any parole violator is revoked, the violator shall remain in the custody of the department of social services under the terms of the parolee's original commitment. If the parole of any parole violator is not revoked, the board shall order his or her release subject to the terms of his or her parole with any modifications that the board shall

determine proper.

Sec. 810. NEW SECTION. VIOLATION OF PROBATION. A parole officer or other agency charged with the supervision of a probationer as authorized by sections one hundred seven (107) and five hundred one (501) of this chapter having probable cause to believe that any person released on probation has violated the conditions of his or her probation shall proceed by arrest or summons as in the case of a parole violation. The functions of the magistrate 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. Where the parole officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing where 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 thereby. If the violation is established, the court may continue the probation with or without an alteration of the conditions of probation, or may revoke the probation and may 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.

Sec. 811. NEW SECTION. CONVICTION OF OTHER OFFENSE. When the alleged violation consists of a conviction of a public offense in this or any other state, such conviction shall be proved by a certified copy of the judgment of conviction, together with evidence that the alleged violator is the person against whom the judgment was rendered. Neither the magistrate, court, nor board of parole shall re-try the facts underlying such conviction.

DIVISION IX

FINES

Section 901. NEW SECTION. 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.

Sec. 902. NEW SECTION. FINE IN ADDITION TO IMPRISONMENT. The court may impose a fine in addition to confinement, where such is authorized.

Sec. 903. NEW SECTION. PAYMENT IN INSTALLMENTS. The court may, in its discretion, order a fine to be paid in installments, or may fix a date in the future for the payment of the fine, whenever it appears that the defendant cannot make immediate payment, or should not be made to do so.

Sec. 904. NEW SECTION. 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 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 one (1) of this section shall be subtracted from the damages recovered by the state.

Sec. 905. NEW SECTION. NONPAYMENT OF FINES. Any person who is able to pay a fine, or an installment of a fine, and who refuses to do so, or who fails to make a good faith

effort to pay his or her fine, or any installment thereof, shall be held in contempt of court.

Sec. 906. NEW SECTION. FINE AS JUDGMENT. 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.

CHAPTER 4

COORDINATING AMENDMENTS

Section 1. Section seven point ten (7.10), Code 1975, is amended to read as follows:

7.10 EMERGENCY HIGHWAY PEACE OFFICERS. Whenever the governor is satisfied that a state of emergency exists, or is likely to exist, on the public streets or highways of this state, because of violations of chapter 321, ~~he~~ the governor shall designate any employee or employees of this state as peace officers pursuant to ~~section 748.3, subsection 6~~ chapter two (2), section one hundred four (104), subsection seven (7), paragraph j, of this Act, until such time as the governor is satisfied the state of emergency is ended.

Sec. 2. Section eight point forty (8.40), Code 1975, is amended to read as follows:

8.40 MISDEMEANORS--REMOVAL--IMPEACHMENT. A refusal to perform any of the requirements of this chapter, and the refusal to perform any rule or requirement or request of the governor or the state comptroller made pursuant to or under authority of this chapter, by any board member, commissioner, director, manager, building committee, or other officer or person connected with any institution, or other state department or establishment as herein defined, shall subject the offender to a penalty of two hundred fifty dollars, to be recovered in an action instituted in the district court of

Polk county by the attorney general for the use of the state~~,~~ ~~and shall also constitute a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court~~. If such offender be not an officer elected by vote of the people, such offense shall be sufficient cause for removal from office or dismissal from employment by the governor upon thirty days' notice in writing to such offender; and, if such offender be an officer elected by vote of the people, such offense shall be sufficient cause to subject the offender to impeachment.

Sec. 3. Section eleven point fourteen (11.14), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

A report of such examination shall be made in triplicate signed and verified by the officers making the examination; one copy to be filed with the auditor of state, one copy with the officer under investigation, and one copy to the county auditor who shall transmit same to the board of supervisors if a county office is under investigation, or with the president of the school board if a school is under investigation, or with the mayor and the council if a city office is under examination. All reports shall be open to public inspection, including copies on file in the office of the state auditor, and refusal on the part of any public official to permit such inspection when such reports have been filed with ~~him~~ the state auditor shall constitute a simple misdemeanor ~~and shall be punishable by a fine not to exceed fifty dollars or by imprisonment in the county jail not to exceed fifteen days~~.

Sec. 4. Section eleven point nineteen (11.19), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

All reports shall be open to public inspection, including copies on file in the office of the state auditor, and refusal on the part of any public official to permit such inspection when such reports have been filed with ~~him~~ the state auditor, shall constitute a simple misdemeanor ~~and shall be punishable by a fine not to exceed fifty dollars or by imprisonment in the county jail not to exceed fifteen days~~.

Sec. 5. Section eighteen point ten (18.10), Code 1975,

is amended to read as follows:

18.10 CAPITOL BUILDINGS AND GROUNDS--RULES. The director shall establish, publish, and enforce rules regulating and restricting the use by the public of the capitol buildings and grounds. The rules when established shall be posted in conspicuous places about the buildings and grounds. Any person violating any rule, except a parking regulation, shall be guilty of a simple misdemeanor ~~and upon conviction be punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~.

Sec. 6. Section nineteen A point twenty (19A.20), Code 1975, is amended to read as follows:

19A.20 PENALTY. Any person who willfully violates any provision of this chapter or any rules adopted in accordance with this chapter, where no other penalty is prescribed, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished therefor by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days~~.

Sec. 7. Section twenty-five A point fifteen (25A.15), Code 1975, is amended to read as follows:

25A.15 ATTORNEY'S FEES AND EXPENSES. The court rendering a judgment for the claimant under this chapter, or the state appeal board, with the advice and approval of the attorney general, making an award under section 25A.3, or the attorney general making an award under section 25A.9, as the case may be, shall, as a part of the judgment or award, determine and allow reasonable attorney's fees and expenses, to 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~~,~~ ~~and shall, upon conviction thereof, be subject to a fine of not more than one thousand dollars or imprisonment for not more than one year, or both~~.

Sec. 8. Section twenty-eight A point eight (28A.8), Code 1975, is amended to read as follows:

28A.8 PENALTY. Any person knowingly violating or attempting to violate any provision of this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than one hundred dollars~~.

Sec. 9. Section thirty point three (30.3), Code 1975, is amended to read as follows:

30.3 PENALTIES. ~~If~~ Where no other penalty is provided, any person who shall violate any of the provisions of this chapter, ~~he~~ shall be guilty of a simple misdemeanor ~~and, on the occasion of the first conviction, shall be fined not less than ten dollars nor more than one hundred dollars and, on the occasion of the second or any subsequent conviction, shall be imprisoned not less than one day nor more than thirty days, according to the discretion of the court, within said limits, in any case~~.

Sec. 10. Section thirty-five A point nine (35A.9), Code 1975, is amended to read as follows:

35A.9 FALSE STATEMENTS--PENALTY. Whoever knowingly makes a false statement, oral or written, relating to a material fact in supporting a claim under the provisions of this chapter, shall be ~~punished by a fine of not more than one thousand dollars or be imprisoned for not more than one year, or both~~ guilty of a simple misdemeanor, and shall forfeit all benefits he or she might have been entitled to under this chapter.

Sec. 11. Section thirty-five B point nine (35B.9), Code 1975, is amended to read as follows:

35B.9 FALSE STATEMENTS--PENALTY. Whoever knowingly makes a false statement, oral or written, relating to a material fact in supporting a claim under the provisions of this chapter, shall be ~~punished by a fine of not more than one thousand dollars or be imprisoned for not more than one year, or both~~ guilty of a simple misdemeanor, and shall forfeit all benefits he or she might have been entitled to under this chapter.

Sec. 12. Section forty-three point one hundred twenty (43.120), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever ~~is guilty of~~ commits any of the following acts shall be ~~fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than six months~~ guilty of a serious misdemeanor, to wit:

Sec. 13. Section forty-eight point five (48.5), subsection three (3), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter eighty-one (81), section forty-nine (49) is amended to read as follows:

3. Neither the duplicate registration records open to public inspection nor any list obtained under subsection two (2) of this section shall be used for any purpose of any kind or nature, other than to request a registrant's vote at a primary or general election, or any other bona fide political purpose. The commissioner shall keep a list of the name, address, telephone number, and social security number of each person who copies or obtains copies of the registration lists. Any person that uses such lists in violation of this section shall, upon conviction, be ~~imprisoned in the county jail, not to exceed one year, or be fined not to exceed one thousand dollars, or by both such fine and imprisonment, for each violation~~ guilty of a serious misdemeanor.

Sec. 14. Section forty-eight point sixteen (48.16), Code 1975, is amended to read as follows:

48.16 PENALTIES. Any officer or employee who shall willfully fail to perform or enforce any of the provisions of this chapter, or who shall unlawfully or fraudulently remove any registration card or record from its proper compartment in the registration records, or who shall willfully destroy any record provided by this chapter, or any person who shall willfully or fraudulently register more than once, or register under any but his or her true name, or votes or attempts to vote by impersonating another who is registered, or who willfully or fraudulently registers in any election precinct

where ~~he~~ the person is not a resident at the time of registering, or who adds a name or names to a page or pages, or who violates any of the provisions of this chapter, shall be guilty of ~~felony and, upon conviction, shall be imprisoned in the state penitentiary for not less than one year~~ an aggravated misdemeanor.

Sec. 15. Section forty-eight point twenty-seven (48.27), subsection four (4), paragraphs a and d, Code 1975, are amended to read as follows:

a. They shall secure registration of eligible voters anywhere in the jurisdiction of the county commissioner of registration. It shall be unlawful for any mobile deputy registrar to refuse to register any eligible voter and any unreasonable refusal shall be a simple misdemeanor.

d. Mobile deputy registrars shall return all completed registration records at least weekly to the county commissioner of registration except that completed registration records shall be turned in at least every two working days during the last ten days of registration. All completed and unused material must be turned in no later than six o'clock on the day registration closes for the election. Failure to comply with this provision shall be a simple misdemeanor.

Sec. 16. Section forty-nine point one hundred eight (49.108), Code 1975, is amended to read as follows:

49.108 PENALTY. Any violation of the provisions of section 49.107 shall ~~be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment for not less than ten days nor more than thirty days in the county jail, or by both fine and imprisonment~~ constitute a simple misdemeanor.

Sec. 17. Section forty-nine point one hundred ten (49.110), Code 1975, is amended to read as follows:

49.110 INTIMIDATION OF EMPLOYEES BY EMPLOYER. Any employer who shall refuse to an employee the privilege conferred by section 49.109, or shall subject such employee to a penalty or reduction of wages because of the exercise of such privilege, or shall in any manner attempt to influence

or control such employee as to how ~~he~~ the employee shall vote, by offering any reward, or threatening discharge from employment, or otherwise intimidating or attempting to intimidate such employee from exercising ~~his~~ the employee's right to vote, shall be ~~punished by a fine of not less than five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 18. Section forty-nine point one hundred twelve (49.112), Code 1975, is amended to read as follows:

49.112 PENALTY. Any person violating section 49.111 shall be ~~fined not less than ten dollars nor more than one hundred dollars, or imprisoned not less than ten nor more than thirty days, or be punished by both said fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 19. Section forty-nine point one hundred nineteen (49.119), Code 1975, is amended to read as follows:

49.119 PENALTY. Any person violating or attempting to violate any provisions or requirements of this chapter, or failing or refusing to comply with any order or command of an election officer, made in pursuance of the provisions of this chapter, shall, unless otherwise provided, be ~~punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment of not less than twenty days, nor more than six months, in the county jail~~ guilty of a simple misdemeanor.

Sec. 20. Section forty-nine point one hundred twenty-two (49.122), Code 1975, is amended to read as follows:

49.122 PENALTY. Any person violating any of the provisions of sections 49.120 and 49.121 shall be deemed guilty of a simple misdemeanor ~~and punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months~~.

Sec. 21. Section fifty-one point sixteen (51.16), Code 1975, is amended to read as follows:

51.16 VIOLATIONS. Any judge or clerk violating the provisions of this chapter shall be guilty of a simple misde-

meanor~~,-and,-upon-conviction-thereof,-shall-be-liable-to-a fine-of-not-to-exceed-five-hundred-dollars,-or-imprisonment in-the-county-jail-not-to-exceed-six-months. Any-person-so convicted-shall-be-disfranchised-for-five-years-thereafter.~~

Sec. 22. Section fifty-three point thirty-four (53.34), Code 1975, is amended to read as follows:

53.34 FALSE AFFIDAVIT. Any person who shall willfully swear falsely to any of such affidavits shall be guilty of ~~perjury,-and-punished-accordingly~~ a fraudulent practice.

Sec. 23. Section fifty-three point thirty-five (53.35), Code 1975, is amended to read as follows:

53.35 REFUSAL TO RETURN BALLOT. Any person who, having procured an official ballot or ballots, shall willfully neglect or refuse to cast or return the same in the manner provided, or who shall willfully violate any provision of this chapter, shall, unless otherwise provided, be ~~fined-not-to exceed-one-hundred-dollars,-or-imprisoned-in-the-county-jail not-to-exceed-thirty-days~~ guilty of a simple misdemeanor. Any person who applies for a ballot and willfully neglects or refuses to return the same shall be deemed to have committed an offense in the county to which such ballot was returnable.

Sec. 24. Section fifty-three point thirty-six (53.36), Code 1975, is amended to read as follows:

53.36 OFFENSES BY OFFICERS. If any commissioner or any election officer shall refuse or neglect to perform any of the duties prescribed by this chapter, or shall violate any of the provisions thereof, he or she shall ~~be-fined-not-less than-one-hundred-dollars-nor-more-than-one-thousand,-or imprisoned-in-the-county-jail-not-to-exceed-ninety-days~~, where no other penalty is provided, be guilty of a simple misdemeanor.

Sec. 25. Section fifty-six point sixteen (56.16), Code 1975, is amended to read as follows:

56.16 PENALTY. Any person who willfully violates any provisions of this chapter shall upon conviction, be ~~subject to-a-fine-of-not-more-than-one-thousand-dollars-or-imprisonment-in-the-county-jail-for-not-more-than-thirty-days~~ guilty

of a serious misdemeanor.

Sec. 26. Section sixty-four point twenty-five (64.25), Code 1975, is amended to read as follows:

64.25 FAILURE TO GIVE BOND. ~~Any~~ Action by any officer ~~who-acts~~ in an official capacity without giving bond when such bond is required shall ~~be-fined-in-an-amount-not-exceeding-the-amount-of-the-bond-required-of-him~~ constitute grounds for removal from office.

Sec. 27. Section sixty-seven point six (67.6), Code 1975, is amended to read as follows:

67.6 EFFECT OF ORDER--PENALTY. It shall be unlawful for such officer, after the making of such order of suspension, to exercise or attempt to exercise any of the functions of his or her office until such suspension shall be revoked; and any attempt by the suspended officer to exercise such office shall ~~be-punished-by-imprisonment-in-the-county-jail not-more-than-one-year,-or-by-a-fine-not-exceeding-one-thousand dollars,-or-by-both-fine-and-imprisonment~~ constitute a serious misdemeanor.

Sec. 28. Section sixty-eight A point six (68A.6), Code 1975, is amended to read as follows:

68A.6 PENALTY. It shall be unlawful for any person to deny or refuse any citizen of Iowa any right under this chapter, or to cause any such right to be denied or refused. Any person knowingly violating or attempting to violate any provision of this chapter where no other penalty is provided shall be guilty of a simple misdemeanor ~~and-upon-conviction shall-be-punished-by-a-fine-of-not-more-than-one-hundred-dollars~~.

Sec. 29. Section sixty-nine point two (69.2), subsection six (6), Code 1975, is amended to read as follows:

6. The conviction of incumbent of an ~~infamous-crime~~ aggravated misdemeanor, or of any public offense involving the violation of ~~his~~ the incumbent's oath of office.

Sec. 30. Section seventy-three point five (73.5), Code 1975, is amended to read as follows:

73.5 VIOLATIONS. Any officer or person who is connected

with, or is a member or agent or representative of any commission, board, committee, officer or other governing body of this state, or of any county, township, school district, city, or contractor, who fails to give preference to Iowa labor as required in sections 73.3 and 73.4, shall be guilty of a simple misdemeanor~~, and upon conviction shall be punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail for not to exceed thirty days~~. Each separate case of failure to give preference to Iowa labor shall constitute a separate offense.

Sec. 31. Section seventy-five point seven (75.7), Code 1975, is amended to read as follows:

75.7 PENALTY. Any public officer who fails to perform any duty required by this chapter or who does any act prohibited by this chapter, where no other penalty is provided, shall be guilty of a simple misdemeanor.

Sec. 32. Section seventy-seven point eleven (77.11), Code 1975, is amended to read as follows:

77.11 IMPROPERLY ACTING AS NOTARY. If any notary public exercises the duties of his or her office after the expiration of his or her commission, or when otherwise disqualified, or appends his or her official signature to documents when the parties have not appeared before him or her, he or she shall be ~~fined not less than fifty dollars~~ guilty of a simple misdemeanor, and shall be removed from office by the secretary of state.

Sec. 33. Section seventy-seven point fifteen (77.15), Code 1975, is amended to read as follows:

77.15 NEGLECT TO DEPOSIT RECORDS. If any notary, on his or her resignation or removal, neglects for three months so to deposit them, he or she shall be guilty of a simple misdemeanor and be liable in an action to any person injured by such neglect.

Sec. 34. Section seventy-seven point sixteen (77.16), Code 1975, is amended to read as follows:

77.16 NEGLECT OF EXECUTOR TO DEPOSIT RECORDS. If an executor or administrator of a deceased notary willfully neglects, for three months after his or her acceptance of that appointment, to deposit in the secretary of state's office the records and papers of a deceased notary which came into his or her hands, he shall be held guilty of a simple misdemeanor.

Sec. 35. Section eighty point six (80.6), Code 1975, is amended to read as follows:

80.6 IMPERSONATING OFFICER--UNIFORM. Any person who impersonates a member of the Iowa safety patrol or other officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer, with intent to deceive anyone, shall be guilty of a simple misdemeanor ~~and be punished as provided in section 321.482~~.

Sec. 36. Section eighty A point twelve (80A.12), Code 1975, is amended to read as follows:

80A.12 PENALTIES. Any person, firm or corporation who violates any of the provisions of this chapter ~~or~~ where no other penalty is provided shall be guilty of a simple misdemeanor. Anyone who makes any false statement or representation in any application or statement filed with the commissioner of public safety, as required by this chapter, or any person who falsely states or represents that he or she has been or is a private detective or advertises himself or herself as such~~, or any~~ shall be guilty of a fraudulent practice. Any person, firm, or corporation who engages in the private detective business or profession as defined in this chapter, without being possessed of a current, valid license therefor, as provided by this chapter, shall be guilty of a serious misdemeanor ~~and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment~~.

Sec. 37. Section eighty-one point thirteen (81.13), Code 1975, is amended to read as follows:

81.13 PENALTIES. Any person violating any provision of this chapter shall be guilty of a simple misdemeanor, except

as herein otherwise provided~~,-and-shall-upon-conviction-thereof be-punished-by-a-fine-of-not-more-than-one-hundred-dollars or-by-imprisonment-in-the-county-jail-not-exceeding-thirty days~~.

Sec. 38. Section eighty-one A point nine (81A.9), Code 1975, is amended to read as follows:

81A.9 PENALTY. Any merchant, whether an individual person, a firm, corporation, partnership or association violating any of the provisions of this chapter shall~~,-upon conviction,-be-fined-in-a-sum-not-to-exceed-one-hundred-dollars,-or-be-imprisoned-not-to-exceed-thirty-days-in-jail~~ be guilty of a simple misdemeanor. Each sale made in violation of the provisions hereof shall be and constitute a separate offense.

Sec. 39. Section eighty-three A point twenty-nine (83A.29), Code 1975, is amended to read as follows:

83A.29 PENALTY FOR FAILURE TO REGISTER. Any operator who fails to make timely application for registration of each site where mining is being conducted is guilty of a simple misdemeanor ~~and-on-conviction-shall-be-punished-by-a-fine of-not-less-than-fifty-dollars-nor-more-than-five-hundred dollars-or-by-imprisonment-not-to-exceed-thirty-days,-or-both such-fine-and-imprisonment~~. Each day mining activities are conducted at a site for which no application for registration has been made as required under section 83A.13 shall constitute a separate violation.

Sec. 40. Section eighty-four point sixteen (84.16), subsections one (1) and two (2), Code 1975, are amended to read as follows:

84.16 PENALTIES.

1. Any person who violates any provision of this chapter, or any rule or order of the council where no other penalty is provided shall be ~~subject-to-a-penalty-of-not-more-than one-thousand-dollars-for-each-act-of-violation-and-for-each day-that-such-violation-continues,-unless-the-penalty-for such-violation-is-otherwise-specifically-provided-for-and made-exclusive-in-this-chapter~~ guilty of a simple misdemeanor.

2. If any person, for the purpose of evading this chapter, or any rule or order of the council, shall make or cause to be made any false entry or statement in a report required by this chapter or by any such rule or order, or shall make or cause to be made any false entry in any record, account, or memorandum required by this chapter, or by any such rule or order, or shall omit, or cause to be omitted, from any such record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any such rule or order, or shall remove from this state or destroy, mutilate, alter or falsify any such record, account, or memorandum, such person shall be guilty of a ~~misdemeanor-and,-upon-conviction,-shall-be-subject-to-a-fine-of-not-more-than-five thousand-dollars-or-imprisonment-in-a-county-jail-for-a-term not-exceeding-six-months,-or-to-both-such-fine-and-imprisonment~~ fraudulent practice.

Sec. 41. Section eighty-four point sixteen (84.16), Code 1975, is amended by striking subsection four (4).

Sec. 42. Section eighty-five point forty-one (85.41), Code 1975, is amended to read as follows:

85.41 REFUSAL TO FURNISH STATEMENT. On failure of the employer to furnish such statement of earnings for thirty days after receiving written request therefor from an injured employee, ~~his~~ the employee's agent, attorney, dependent, or legal representative, such employer shall ~~pay-a-penalty-of twenty-five-dollars-for-each-offense-to-be-collected-by-the commissioner-in-any-court-having-jurisdiction-and-paid-into the-state-treasury~~ be guilty of a simple misdemeanor.

Sec. 43. Section eighty-five point fifty-four (85.54), Code 1975, is amended to read as follows:

85.54 CONTRACTS TO AVOID COMPENSATION. Any contract of employment, relief benefit, or insurance, or other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this chapter, shall be null and void; and any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of

a simple misdemeanor ~~and punishable by a fine not less than ten dollars nor more than fifty dollars for each offense~~.

Sec. 44. Section eighty-six point four (86.4), Code 1975, is amended to read as follows:

86.4 POLITICAL ACTIVITY AND CONTRIBUTIONS. It shall be unlawful for the commissioner, or any appointee of the commissioner while in office, to espouse the election or appointment of any candidate to any political office, ~~contribute to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or appointment to any political office,~~ and any person violating the provisions of this section shall be guilty of a simple misdemeanor ~~and shall be fined one hundred dollars, and it shall be sufficient cause for removal from office~~.

Sec. 45. Section eighty-six point five (86.5), Code 1975, is amended to read as follows:

86.5 POLITICAL PROMISES. Any person who is a candidate for appointment as commissioner who makes any promise to another, express or implied, in consideration of any assistance or influence given or recommendation made that the candidate will, if appointed as a commissioner, appoint such person or one whom he or she may recommend to any office within the power of the commissioner to appoint, shall be ~~fined one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 46. Section eighty-six point ten (86.10), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

~~A refusal~~ Refusal on the part of the employer to submit his or her books, records, or payrolls for the inspection of the commissioner or his or her authorized representatives presenting written authority from the commissioner, shall ~~subject the employer to a penalty of one hundred dollars for each such offense, to be collected by civil action in the name of the state, and paid into the state treasury~~ constitute a simple misdemeanor.

Sec. 47. Section eighty-six point twelve (86.12), Code 1975, is amended to read as follows:

86.12 FAILURE TO REPORT. Any employer who willfully fails to make the reports required by this chapter shall be ~~liable to a penalty of fifty dollars for each offense to be recovered by the commissioner~~ guilty of a simple misdemeanor. The commissioner shall be represented by the county attorney of the county in which such proceedings is brought.

Sec. 48. Section eighty-seven point two (87.2), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any employer coming under the provisions of this and chapters 85 and 86 who fails to comply with this section or to post and keep the above notice in the manner and form herein required, shall be guilty of a simple misdemeanor.

Sec. 49. Section eighty-seven point fourteen (87.14), Code 1975, is amended to read as follows:

87.14 MINES--INSURANCE REQUIRED. It shall be unlawful for any person, firm, association, corporation or partnership to engage in the business of operating a mine under any system of removing coal for sale, or any work in connection therewith, or incident thereto, without first obtaining insurance covering compensation payments or obtaining relief therefrom as provided in chapters 85, 86, and 87, as herein amended. Any violation of this section shall be deemed a simple misdemeanor ~~and upon conviction of such offense the offender shall be punished by a fine of not less than ten dollars nor more than one hundred dollars~~. Each day such offense is committed shall be regarded as a separate, wrongful act and may be prosecuted in one proceeding, but in separate counts, at the election of the prosecuting attorney.

Sec. 50. Section eighty-eight point fourteen (88.14), subsection eight (8), Code 1975, is amended to read as follows:

8. DISCLOSURE OF CONFIDENTIAL INFORMATION. Whoever violates the provisions of section 88.12 shall be ~~fined not more than one thousand dollars, or imprisoned not more than one year, or both such fine and imprisonment~~ guilty of a serious misdemeanor; and shall be removed from office or employment.

Sec. 51. Section eighty-eight A point ten (88A.10), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who interferes with, impedes, or obstructs in any manner the commissioner or any authorized representative of the bureau in the performance of his or her duties under this chapter is guilty of a simple misdemeanor. Any person who bribes or attempts to bribe the commissioner or his or her designee shall be subject to ~~section 739.1~~ chapter one (1), section two thousand two hundred one (2201) of this Act.

Sec. 52. Section eighty-nine point nine (89.9), Code 1975, is amended to read as follows:

89.9 PENALTY. Any person or persons, corporations and directors, managers and superintendents, and officers thereof, violating any of the provisions of this chapter, shall be guilty of a simple misdemeanor~~, and upon conviction thereof shall be punished by a fine in a sum not more than one hundred dollars~~.

Sec. 53. Section ninety-one point sixteen (91.16), Code 1975, is amended to read as follows:

91.16 VIOLATIONS--PENALTIES. Persons violating any of the provisions of this chapter shall be punished as in this section provided, respectively:

1. Any owner, superintendent, manager, or person in charge of any factory, mill, workshop, store, mine, hotel, restaurant, cafe, railway, business house, public or private work, who shall refuse to allow the commissioner of labor or any inspector or employee of the bureau of labor to enter the same, or who shall hinder or deter him or her in collecting information which it is his or her duty to collect shall be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

~~2. Any person duly subpoenaed to attend a hearing before the commissioner or deputy or a court in any proceeding provided by this chapter who shall willfully neglect or refuse to attend or testify at the time and place named in the subpoena shall be fined not exceeding fifty dollars or imprisoned in the county jail not exceeding thirty days.~~

~~3~~ 2. Any officer or employee of the bureau of labor, or any person making unlawful use of names or information obtained by virtue of his or her office, shall be ~~fined not exceeding five hundred dollars or imprisoned in the county jail not exceeding one year~~ guilty of a serious misdemeanor.

~~4~~ 3. Any owner, operator, or manager of a factory, mill, workshop, mine, store, railway, business house, public or private work, who shall neglect or refuse for thirty days after receipt of notice from the commissioner to furnish any reports or returns he or she may require to enable him or her to discharge his or her duties shall be ~~fined not to exceed one hundred dollars or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 54. Section ninety-two point twenty (92.20), Code 1975, is amended to read as follows:

92.20 PENALTY. The parent, guardian, or person in charge of any migratory worker or of any child who shall engage in any street occupation in violation of any of the provisions of this chapter shall be ~~punished by a fine of not less than twenty dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Any person who furnishes or sells to any minor child any article of any description when ~~he~~ the person knows or should have known that said minor intends to sell in violation of the provisions of this chapter, shall be ~~punished by a fine of not less than twenty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Any other violation of this chapter for which a penalty is not specifically provided, shall be ~~punishable by a fine of not less than twenty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor. Every day during which any violation of this chapter continues shall constitute a separate and distinct offense, and the employment of any person in violation of this chapter shall, with respect to each person so employed, constitute a separate and distinct

offense.

Sec. 55. Section ninety-four point seven (94.7), Code 1975, is amended to read as follows:

94.7 UNLAWFUL PRACTICES--CIVIL LIABILITY. ~~No~~ Any person, firm, or corporation ~~shall send~~ who sends an application for employment to an employer who has not applied to such person, firm, or corporation for help or labor shall be guilty of a simple misdemeanor. ~~Nor shall any~~ Any person, firm, or corporation engaged in the business of operating an employment agency or bureau, who fraudulently ~~promise or deceive~~ promises or deceives either through a false notice or advertisement or other means, any applicant for help or employment with regard to the service to be rendered by such person, firm, corporation, agency, or bureau shall be guilty of a simple misdemeanor. ~~Any person who violates any of the provisions of this section shall be liable in a civil suit for damages to any person who is damaged or injured thereby and shall also be guilty of a misdemeanor, and upon conviction, shall be punished as provided in section 94.42.~~

Sec. 56. Section ninety-four point twelve (94.12), Code 1975, is amended to read as follows:

94.12 VIOLATIONS. Any person, firm, or corporation violating any of the provisions of this chapter, or who shall refuse access to records, books, or other papers relative to the conduct of such agency or bureau, to any person having authority to examine same, shall be ~~punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor unless otherwise provided.

Sec. 57. Section ninety-five point six (95.6), Code 1975, is amended to read as follows:

95.6 VIOLATIONS. Any person in any manner undertaking to do any of the things described in section 95.1, without first securing a license as herein provided, shall be guilty of a serious misdemeanor.

Sec. 58. Section ninety-six point eleven (96.11), subsection nine (9), Code 1975, is amended to read as follows:

9. SUBPOENAS. In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commission, or appeal tribunal, or any member or duly authorized representative thereof, shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, or an appeal tribunal, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; any failure to obey such order of the court may be punished by said court as a contempt thereof. ~~Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power to do so, in obedience to a subpoena, shall be punished by a fine of not more than two hundred dollars or by imprisonment, for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.~~

Sec. 59. Section ninety-six point fifteen (96.15), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. WAIVER OF RIGHTS VOID. Any agreement by an individual to waive, release, or commute his or her rights to benefits or any other rights under this chapter shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from ~~him~~ the employer, or require or accept any waiver of any right hereunder by any individual in his or her employ. Any employer or officer or agent of an employer who violates any provision of this

subsection shall, for each offense, be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned for not more than six months, or both~~ guilty of a serious misdemeanor.

2. LIMITATION OF FEES. No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the commission, or an appeal tribunal or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the commission. Any person who violates any provisions of this subsection shall, for each such offense, be ~~fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not more than six months, or both~~ guilty of a serious misdemeanor.

Sec. 60. Section ninety-six point sixteen (96.16), subsections one (1), two (2), and three (3), Code 1975, are amended to read as follows:

1. PENALTIES. Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, shall be ~~punished by a fine of not less than twenty dollars nor more than fifty dollars or by imprisonment for not longer than thirty days~~ guilty of a fraudulent practice. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

2. FALSE STATEMENT. Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required from an employing unit under this chapter, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be ~~punished by a fine of not less than twenty dollars nor more than two hundred dollars, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment~~ guilty of a fraudulent practice; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal, shall constitute a separate offense.

3. UNLAWFUL ACTS. Any person who shall willfully violate any provisions of this chapter or any rule thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be ~~punished by a fine of not less than twenty dollars nor more than two hundred dollars or by imprisonment for not longer than sixty days, or by both such fine and imprisonment~~ guilty of a simple misdemeanor, and each day such violation continues shall be deemed to be a separate offense.

Sec. 61. Section ninety-seven A point thirteen (97A.13), Code 1975, is amended to read as follows:

97A.13 PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system as a result of such act, shall be guilty of a ~~misdemeanor and shall be punishable therefor under the laws of this state~~ fraudulent practice. Should any change or error in records result in any member or beneficiary receiving from the system more or less than ~~he~~ the person would have been entitled to receive had the records been correct, the board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly

entitled, shall be paid.

Sec. 62. Section ninety-seven B point thirty-eight (97B.38), Code 1975, is amended to read as follows:

97B.38 FEES FOR SERVICES. The commission may, by rule, prescribe the maximum fees which may be charged for services performed in connection with any claim before the commission under this chapter, and any agreement in violation of such rules shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this chapter by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the commission, shall be deemed guilty of a ~~misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or both~~ fraudulent practice.

Sec. 63. Section ninety-seven B point forty (97B.40), Code 1975, is amended to read as follows:

97B.40 FRAUD. Whoever, for the purpose of causing an increase in any payment authorized to be made under this chapter, or for the purpose of causing any payment to be made where no payment is authorized under this chapter, shall willfully make or cause to be made any false statement or representation as to the amount of any wages paid or received for the period during which earned or unpaid, knowing it to be false or whoever makes or causes to be made any false statement of a material fact knowing it to be false in any application for any payment under this chapter, or whoever willfully makes or causes to be made any false statement, representation, affidavit, or document in connection with such an application knowing them to be false, shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both~~ fraudulent practice.

Sec. 64. Section ninety-eight point three (98.3), Code 1975, is amended to read as follows:

98.3 VIOLATION. Any person who shall violate any of the provisions of section 98.2 shall for the first offense be ~~punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days~~ guilty of a simple misdemeanor. For a second or any subsequent violation such person shall be ~~punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than one month nor more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 65. Section ninety-eight point thirty-seven (98.37), Code 1975, is amended to read as follows:

98.37 CERTAIN OFFENSES AND PENALTIES PROVIDED. Whoever shall violate any provision of this chapter ~~for which a fine or imprisonment is not elsewhere specifically provided,~~ shall be ~~punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment for not to exceed thirty days~~ guilty of a simple misdemeanor unless otherwise provided.

Sec. 66. Section ninety-eight point thirty-eight (98.38), Code 1975, is amended to read as follows:

98.38 COUNTERFEITING AND PREVIOUSLY USED STAMPS. Any person who shall print, engrave, make, issue, sell, or circulate, or shall possess or have in his or her possession with intent to use, sell, circulate, or pass, any counterfeit stamp or previously used stamp, or who shall use, or consent to the use of, any counterfeit stamp or previously used stamp in connection with the sale, or offering for sale, of any cigarettes, or who shall place, or cause to be placed, on any individual package of cigarettes, any counterfeit stamp or previously used stamp, shall be guilty of ~~a felony and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars or by imprisonment not more than one year or both such fine and imprisonment~~

an aggravated misdemeanor.

Sec. 67. Section ninety-eight point forty-five (98.45), unnumbered paragraph four (4), Code 1975, is amended to read as follows:

Any person who fails or refuses to transmit to the director the required reports or whoever refuses to permit the examination of the records by the director shall be guilty of a simple misdemeanor.

Sec. 68. Section ninety-eight point fifty (98.50), Code 1975, is amended to read as follows:

98.50 VIOLATIONS, PENALTIES.

1. Any person who in any manner knowingly attempts to evade the tax imposed by this division or who knowingly aids or abets in the evasion or attempted evasion of the tax or who knowingly violates the provisions of section 98.44, subsection 1, of this division, shall be ~~imprisoned in the county jail for a term of not more than one year or fined not to exceed one thousand dollars, or both~~ guilty of a serious misdemeanor.

2. Any person who otherwise violates any provisions of this division shall be guilty of a simple misdemeanor.

Sec. 69. Section ninety-nine point one (99.1), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever shall erect, establish, continue, maintain, use, own, or lease any building, erection, or place used for the purpose of ~~lewdness, assignation,~~ prostitution or gambling~~, or pool selling as defined by section 726.6~~, except as authorized under the laws of this state, is guilty of a nuisance, and the building, erection, or place, or the ground itself, in or upon which such ~~lewdness, assignation,~~ prostitution, or gambling~~, or pool selling as defined by section 726.6~~ is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such nuisance, are also declared a nuisance and shall be enjoined and abated as hereinafter provided.

Sec. 70. Section one hundred point four (100.4), Code

1975, is amended to read as follows:

100.4 REFUSAL OF OFFICER TO INVESTIGATE. Any chief of a fire department, mayor, or township clerk who fails or refuses to make the investigation and report required of him or her, shall be ~~fined in a sum not less than five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 71. Section one hundred point eight (100.8), Code 1975, is amended to read as follows:

100.8 REFUSAL TO TESTIFY OR PRODUCE BOOKS. Any witness who refuses to be sworn, ~~or refuses to testify,~~ except as otherwise provided by law, or who disobeys any lawful order of said fire marshal, or his or her designated subordinates, or who fails to produce any books, papers, or documents touching any matter under examination, shall be guilty of a simple misdemeanor~~, and shall be fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~.

Sec. 72. Section one hundred point thirty-five (100.35), Code 1975, is amended to read as follows:

100.35 RULES OF MARSHAL. The fire marshal shall adopt, amend, promulgate and enforce rules and standards relating to fire protection, fire safety and the elimination of fire hazards in churches, schools, hotels, theaters, amphitheaters, hospitals, health care facilities as defined in section 135C.1, boarding homes or housing, rest homes, dormitories, college buildings, lodge halls, club rooms, public meeting places, places of amusement, and all other buildings or structures in which persons congregate from time to time, whether publicly or privately owned. Any person, firm or corporation violating any of such rules and regulations of the fire marshal shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars~~. Each day of the continuing violation of such rules after conviction shall be considered a separate offense. Appeals may be taken from such convictions as in other criminal cases.

Sec. 73. Section one hundred one point seven (101.7), Code 1975, is amended to read as follows:

101.7 PENALTY. Any person, firm or corporation violating any of the rules promulgated under this chapter shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars~~. Each day of the continuing violation of such rules after conviction shall be considered a separate offense. Appeals may be taken from such convictions as in other criminal cases.

Sec. 74. Section one hundred one A point one (101A.1), subsection one (1), Code 1975, is amended to read as follows:

1. "Explosive" or "explosives" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States department of transportation. The term "explosives" includes all material which is classified as class A, class B, and class C explosives by the United States department of transportation, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices and cartridges for industrial guns, but shall not include "fireworks" as defined ~~and regulated pursuant to sections 732.17 through 732.19~~ in chapter one (1), section two thousand seven hundred two (2702) of this Act nor ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

Sec. 75. Section one hundred one A point fourteen (101A.14), Code 1975, is amended to read as follows:

101A.14 CRIMINAL PENALTIES.

1. Any person who violates the provisions of section

101A.2, subsection 3, or section 101A.3, subsection 4, commits a public offense and, upon conviction, shall be ~~punished by imprisonment in the penitentiary for a term not to exceed fifteen years, or fined not to exceed five thousand dollars, or by both such imprisonment and fine~~ guilty of a class C felony.

2. Any person who violates the provisions of sections 101A.6, 101A.8 or 101A.9 or any of the rules adopted by the commissioner of public safety pursuant to the provisions of this chapter, commits a ~~public offense and, upon conviction, shall be punished by imprisonment in the county jail not to exceed thirty days, or fined not to exceed one hundred dollars~~ simple misdemeanor.

Sec. 76. Section one hundred two point four (102.4), Code 1975, is amended to read as follows:

102.4 FALSE CLAIM TO EXEMPTION. Any person who shall by misrepresentation, or by the use of a false certificate or the certificate of any other person, endeavor to avail himself or herself of the benefits of this chapter~~, upon conviction thereof,~~ shall be ~~imprisoned in the county jail for a period of not more than six nor less than one month, and pay a fine of not less than ten nor more than one hundred dollars~~ guilty of a serious misdemeanor.

Sec. 77. Section one hundred three point seventeen (103.17), Code 1975, is amended to read as follows:

103.17 VIOLATIONS. Any person who shall violate any of the provisions of law relating to fire escapes, or means of escape from fire, or any owner, agent, or trustee having the full care and control of any building and who has been served with notice as provided herein and who shall, within sixty days of the service of the notice, or within the time as extended by the state fire marshal, fail and neglect to comply with the requirements of law, or of the state fire marshal, or who shall fail, refuse, or neglect to perform any order or requirement fixed by law, or by the state fire marshal, shall be ~~punished by a fine of not less than twenty-five dollars nor more than one hundred dollars~~ guilty of a simple

misdemeanor. Each additional week of neglect to comply with such notice, order, or requirement shall constitute a separate offense.

Sec. 78. Section one hundred three A point twenty-one (103A.21), subsections one (1) and two (2), Code 1975, are amended to read as follows:

103A.21 PENALTY.

1. Any person served with an order pursuant to the provisions of section 103A.19, subsection 3, who fails to comply with the order within thirty days after service or within the time fixed by the local building department for compliance, whichever is longer, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building or structure who shall knowingly violate any of the applicable provisions of the state building code or any lawful order of a local building department made thereunder, shall be ~~punishable by a fine of not more than one hundred dollars, or thirty days in jail, or by both fine and imprisonment~~ guilty of a simple misdemeanor.

2. Violation of this chapter shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person.

Violations of this section shall be simple misdemeanors, and ~~municipal, police, or mayors'~~ magistrates' and district associate judges' courts shall have exclusive jurisdiction to originally hear and determine charges of violations.

Sec. 79. Section one hundred four point seventeen (104.17), Code 1975, is amended to read as follows:

104.17 PENALTIES.

1. Any owner who violates any of the provisions of this chapter shall be ~~punished for each offense by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days in the county jail~~ guilty of a simple misdemeanor, unless otherwise specifically provided in this chapter.

2. Any person who bribes or attempts to bribe an inspector shall be subject to criminal proceedings under ~~section 739.4~~ chapter one (1), section two thousand two hundred one (2201) of this Act.

Sec. 80. Section one hundred six point seven (106.7), subsection five (5), Code 1975, is amended to read as follows:

5. Failure of the operator of any vessel involved in a collision, reportable accident, or other casualty, to offer assistance and aid to other persons affected by such collision, accident, or casualty, as set forth in this chapter, shall ~~be punishable by a fine of not more than one thousand dollars, or imprisonment in the county jail for not more than one year, or both~~ constitute a serious misdemeanor.

Sec. 81. Section one hundred six point thirteen (106.13), Code 1975, is amended to read as follows:

106.13 PENALTY. Any person violating any of the provisions of this chapter, for which another penalty is not otherwise specifically provided, shall, ~~upon conviction or a plea of guilty, be fined not to exceed one hundred dollars or be imprisoned in the county jail not to exceed thirty days~~ be guilty of a simple misdemeanor.

Chapter 232 shall have no application in the prosecution of offenses committed in violation of this chapter or rules and regulations which are adopted under the authority of this chapter which ~~are punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days~~ constitute simple misdemeanors.

Sec. 82. Section one hundred six point twenty-five (106.25), Code 1975, is amended to read as follows:

106.25 PENALTY. If any owner, agent or master of any vessel, plying the waters of this state, shall hire or offer for hire, such vessel for the carrying of a person or persons thereon, without first obtaining annually, a permit as in this chapter required, and before operating such vessel in such service; or if the owner, agent or master, having obtained such permit, receives for carriage or permits carriage on such vessel a greater number of persons than autho-

rized therein, or if any person acts as pilot or engineer on any vessel, for which inspection and registration are required, without first obtaining a permit therefor; or if such pilot or engineer continues to follow such avocation after the same has been revoked or expired, he or she shall be ~~fined in a sum not to exceed one thousand dollars or imprisoned in the county jail not to exceed one year or punished by both such fine and imprisonment~~ guilty of a serious misdemeanor. The provisions of this section shall not apply to vessels registered or numbered by authority of the United States.

Sec. 83. Section one hundred nine point nine (109.9), Code 1975, is amended to read as follows:

109.9 SPAWNING GROUNDS. To effect sound wildlife management and maintain biological balance as provided in section 109.39, the commission may set aside certain portions of any state waters for spawning grounds where the same are suitable for this purpose for such length of time as it may deem advisable by the posting of notices in conspicuous places around such area, and it shall be unlawful for any person to fish or to in any manner interfere with the spawning of fish in this area. Any person violating any of the provisions of this section shall be guilty of a simple misdemeanor ~~and punished as provided in section 109.32~~.

Sec. 84. Section one hundred nine point thirty-two (109.32), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever shall take, catch, kill, injure, destroy, have in possession, buy, sell, ship, or transport any frogs, fish, mussels, birds, their nests, eggs, or plumage, fowls, game, or animals in violation of the provisions of this chapter or of administrative rules of the commission or whoever shall use any device, equipment, seine, trap, net, tackle, firearm, drug, poison, explosive, or other substance or means, the use of which is prohibited by this chapter, or use the same at a time, place or in a manner or for a purpose prohibited, or do any other act in violation of the provisions

of this chapter or of administrative rules of the commission for which no other punishment is provided, shall be ~~fined not less than ten dollars nor more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 85. Section one hundred nine point thirty-three (109.33), Code 1975, is amended to read as follows:

109.33 VIOLATIONS RELATING TO DAMS. Whoever shall erect any dam or other obstruction prohibited by this chapter or at a place or in a manner prohibited shall be guilty of a simple misdemeanor, or shall injure or destroy any dam lawfully erected, shall be ~~fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not more than one hundred days~~ guilty of an aggravated misdemeanor.

Sec. 86. Section one hundred nine point thirty-four (109.34), Code 1975, is amended to read as follows:

109.34 VIOLATIONS BY COMMON CARRIER. Any common carrier which shall violate any of the provisions of this chapter relating to receiving, having in possession, shipping or delivering any fish, fowls, birds, birds' nests, eggs, or plumage, game or animals, in violation of the provisions of this chapter or contrary to the regulations and restrictions therein provided, and any agent, employee, or servant of such corporation violating such provisions, shall be ~~fined not less than one hundred dollars nor more than three hundred dollars, and any such agent, employee, or servant may be imprisoned not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 87. Section one hundred nine point sixty-one (109.61), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Violation of the provisions of this section shall constitute a simple misdemeanor ~~and punishment shall be as provided for in section 109.32~~.

Sec. 88. Section one hundred nine point eighty-seven (109.87), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Taking or attempting to take beaver on private lands or waters without permission of the owner or tenant shall constitute a simple misdemeanor ~~punishable as provided in section 109.32~~.

Sec. 89. Section one hundred nine point ninety-three (109.93), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating this section shall be ~~punished by a fine of not more than three hundred dollars or imprisonment in the county jail for a period not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 90. Section one hundred nine point one hundred twenty (109.120), Code 1975, is amended to read as follows:

109.120 HUNTING FROM AIRCRAFT OR SNOWMOBILES PROHIBITED. It shall be unlawful for any person to intentionally kill or wound, attempt to kill or wound, or pursue any animal, fowl or fish from or with an aircraft in flight or from or with any self-propelled vehicles designed for travel on snow or ice which utilize sled type runners, or skis, or an endless belt tread or any combination thereof and which are commonly known as snowmobiles. Any person who violates the provisions of this section shall be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars, or by a term not to exceed thirty days in the county jail~~.

Sec. 91. Section one hundred ten point thirteen (110.13), Code 1975, is amended to read as follows:

110.13 UNLAWFUL USE--EFFECT. The use of a license by a person other than that to whom issued shall nullify said license and such use shall constitute a simple misdemeanor.

Sec. 92. Sections one hundred ten point twenty (110.20) and one hundred ten point twenty-one (110.21), Code 1975, are amended by striking the sections and inserting in lieu thereof the following:

110.20 DISPOSITION OF SEIZED PROPERTY. Disposition of seized property shall be made in accordance with chapter two (2), division nine (IX) of this Act.

Sec. 93. Section one hundred ten point twenty-six (110.26), Code 1975, is amended to read as follows:

110.26 PENALTIES. Whoever shall violate any of the provisions of this chapter shall be ~~fined not less than ten dollars nor more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 94. Section one hundred ten A point nine (110A.9), Code 1975, is amended to read as follows:

110A.9 VIOLATIONS--PENALTY. Any licensee or any other person, who willfully and intentionally transfers or permits the transfer of the tags issued to the operator of one licensed game breeding and shooting preserve area to the operator of another licensed game breeding and shooting preserve area, or to any other person, or who affixes such tags to game birds not taken from a licensed game breeding and shooting preserve area or to game birds taken from any area other than the area for which such tags were issued, is guilty of a simple misdemeanor.

Sec. 95. Section one hundred eleven point four (111.4), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person, firm, association, or corporation violating any of the provisions of this section or any rule or regulation adopted by the commission under the authority of this section shall be guilty of a simple misdemeanor~~, and upon conviction shall be punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~.

Sec. 96. Section one hundred eleven point fifty-seven (111.57), Code 1975, is amended to read as follows:

111.57 PENALTIES. Any person violating any of the provisions of the foregoing sections number 111.35 to 111.56, inclusive, shall~~, upon conviction, be fined not to exceed one hundred dollars or be imprisoned in the county jail not to exceed thirty days~~ be guilty of a simple misdemeanor.

Sec. 97. Section one hundred eleven A point five (111A.5),

Code 1975, is amended to read as follows:

111A.5 RULES AND REGULATIONS--OFFICERS. The county conservation board may make, alter, amend or repeal rules and regulations for the protection, regulation and control of all museums, parks, preserves, parkways, playgrounds, recreation centers, and other property under its control. No rules and regulations adopted shall be contrary to, or inconsistent with, the laws of the state of Iowa. Such rules and regulations shall not take effect until ten days after their adoption by said board and after their publication once a week for two weeks in at least one paper circulating in the county and after a copy thereof has been posted near each gate or principal entrance to the public ground to which they apply. After such publication and posting, any person violating any provision of such rules and regulations which are then in effect shall~~,-upon-conviction,-be-fined-not-more-than-one hundred-dollars-or-be-imprisoned-in-the-county-jail-not-more than-thirty-days~~ be guilty of a simple misdemeanor. The board may designate the executive officer and such employees as ~~he~~ the executive officer may designate as police officers who shall have all the powers conferred by law on police officers, peace officers, or sheriffs in the enforcement of the laws of the state of Iowa and the apprehension of violators thereof.

Sec. 98. Section one hundred fourteen point twenty-five (114.25), Code 1975, is amended to read as follows:

114.25 VIOLATIONS. Any person who ~~violates-such-permanent-injunction-or~~ presents or attempts to file as his or her own the certificate of registration of another, or who shall give false or forged evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration, or who shall falsely impersonate another practitioner of like or different name, or who shall use or attempt to use a revoked certificate of registration, shall be deemed guilty of a ~~misdemeanor-and-shall-be-punished-by a-fine-of-not-less-than-one-hundred-dollars-nor-more-than five-hundred-dollars,-or-by-imprisonment-for-three-months,~~

~~or-by-both-such-fine-and-imprisonment~~ fraudulent practice.

Sec. 99. Section one hundred fourteen point thirty-two (114.32), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine-not exceeding-one-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 100. Section one hundred fifteen point nine (115.9), Code 1975, is amended to read as follows:

115.9 VIOLATIONS PUNISHED. Any ~~violation-of~~ person who violates the provisions of this chapter shall be ~~punished by-a-fine-not-exceeding-one-hundred-dollars~~ guilty of a simple misdemeanor.

Sec. 101. Section one hundred fifteen point twenty (115.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine-not exceeding-one-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 102. Section one hundred sixteen point sixteen (116.16), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public-offense-which-is-punishable-by-a-fine-not exceeding-one-hundred-dollars-or-by-imprisonment-in-the-county jail-for-not-more-than-thirty-days~~ simple misdemeanor.

Sec. 103. Section one hundred sixteen point twenty-nine (116.29), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person who violates any provisions of section 116.25 shall be guilty of a serious misdemeanor~~, and upon conviction, shall be subject to a fine of not more than five hundred dollars, or to imprisonment for not more than one year, or to both such fine and imprisonment~~.

Sec. 104. Section one hundred seventeen point forty-three (117.43), Code 1975, is amended to read as follows:

117.43 PENALTIES. Any person found guilty of violating a provision of sections 117.1 to 117.42, inclusive, in a first offense shall be ~~punished by a fine of not to exceed one hundred dollars or by imprisonment for a term of not to exceed thirty days in jail~~ guilty of a simple misdemeanor.

Sec. 105. Section one hundred seventeen point forty-five (117.45), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who shall violate the provisions of this section shall be ~~imprisoned in the penitentiary not exceeding two years, or may be fined in the discretion of the court, not exceeding five thousand dollars, or imprisoned in the county jail not more than one year~~ guilty of a fraudulent practice.

Sec. 106. Section one hundred seventeen point fifty-two (117.52), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 107. Section one hundred seventeen A point five (117A.5), Code 1975, is amended to read as follows:

117A.5 PENALTIES.

1. Any person, firm, partnership, corporation, company, or association representing in any manner that the state, the commission or any officer thereof has recommended or acquiesced in the recommendation of the purchase of any

subdivided land offered for sale or lease, in advertising or offering such subdivided land for sale or lease, shall be guilty of a serious misdemeanor ~~and shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment~~.

2. Any person, officer, director, agent, or employee of a person, company, firm, partnership, association, or corporation offering to sell or lease, or selling or leasing, subdivided land prior to the filing of the offering statement and the application required by this chapter shall be guilty of a serious misdemeanor ~~and punished by a fine not to exceed two thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment~~.

3. Except as provided in subsection 2, every person, officer, director, agent, or employee of a person, company, firm, partnership, corporation, or association who authorizes, directs, or aids in the publication, advertisement, distribution, or circulation of any device, scheme, or artifice for obtaining money or property by means of any false pretense, representation, or promise concerning any subdivided land offered for sale or lease, and every person, officer, director, agent, or employee of a company, firm, partnership, corporation, or association who make or attempts to make fictitious or pretended purchases or sales of subdivided lands in this state, or in any other respect willfully violates or fails to comply with any of the provisions of this chapter, or omits or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement of the commission under the provisions of this chapter, is guilty of a serious misdemeanor ~~and shall be punished by a fine not to exceed two thousand dollars or by imprisonment in the county jail for a term not to exceed one year or by both such fine and imprisonment, and if such person is a licensee under chapter 117, the commission also may revoke or suspend his license in the manner provided in such chapter~~.

Sec. 108. Section one hundred eighteen point nineteen (118.19), Code 1975, is amended to read as follows:

118.19 VIOLATIONS--PUNISHMENT. Any person who practices or offers to practice architecture or who uses the word architect or any word or any letters or figures indicating or tending to imply that the person using the same is an architect, without first having complied with the provisions of this chapter, shall be deemed guilty of a serious misdemeanor ~~and shall be punished with a fine of not more than two hundred dollars or imprisonment for not more than one year, or both such fine and imprisonment~~.

Sec. 109. Section one hundred eighteen point twenty-seven (118.27), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 110. Section one hundred eighteen A point eighteen (118A.18), Code 1975, is amended to read as follows:

118A.18 UNLAWFUL PRACTICE. Any person who uses the words landscape architect or any word or any letters or figures indicating or tending to imply that the person using the same is a landscape architect, without having a valid certificate of registration as a landscape architect issued pursuant to this chapter, is guilty of a simple misdemeanor ~~and upon conviction may be sentenced to pay a fine of not more than five hundred dollars or be imprisoned for not more than three months, or be subject to both such fine and imprisonment~~.

Sec. 111. Section one hundred nineteen point one (119.1), Code 1975, is amended to read as follows:

119.1 FRAUDULENT MARKING. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made, in whole or in part, of gold or any alloy of gold, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, any mark indicating or designed to indicate that the gold or alloy in such article is of a greater degree of fineness than the actual fineness or qualify thereof, unless the actual fineness thereof, in the case of flatware or watchcases, be not less by more than three one-thousandths parts, and in case of all other articles be not less by more than one-half carat than the fineness indicated by the marks stamped, branded, engraved, or imprinted upon any part of such article, or upon any tag, card, or label attached thereto, or upon any container in which such article is enclosed according to the standards and subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 112. Section one hundred nineteen point three (119.3), Code 1975, is amended to read as follows:

119.3 "STERLING SILVER." Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having marked, stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, the words "sterling silver" or "sterling" or any colorable imitation thereof, unless nine hundred twenty-five one-thousandths of the component parts of the metal purporting to be silver of which such article is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice, but in the case of all such articles there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standard.

Sec. 113. Section one hundred nineteen point four (119.4), Code 1975, is amended to read as follows:

119.4 "COIN SILVER." Any person making for sale, sell-

ing, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having marked, stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which such article is enclosed, the words "coin" or "coin silver", or any colorable imitation thereof, unless nine hundred one-thousandths of the component parts of the metal appearing or purporting to be silver of which such article is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice; but in case of all such articles there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standards.

Sec. 114. Section one hundred nineteen point five (119.5), Code 1975, is amended to read as follows:

119.5 OTHER ARTICLES OF SILVER. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, any mark or word, other than the word "sterling" or the word "coin", indicating, or designed to indicate that the silver or alloy of silver in said article is of a greater degree of fineness than the actual fineness or quality, unless the actual fineness of the silver or alloy or silver of which said article is composed be not less by more than four one-thousandths parts than the actual fineness indicated by the said mark or word, other than the word "sterling" or "coin", stamped, branded, engraved, or imprinted upon any part of said article, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, subject to the qualifications hereinafter set forth, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 115. Section one hundred nineteen point seven (119.7), Code 1975, is amended to read as follows:

119.7 GOLD-PLATED OR GOLD-FILLED ARTICLES. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal having deposited or plated thereon, or brazed or otherwise affixed thereto, a plate, plating, covering, or sheet of gold or of any alloy of gold and which article is known in the market as "rolled gold-plate", "gold-plate", "gold-filled", or "gold-electroplate", or by any similar designation, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is enclosed, any word or mark usually employed to indicate the fineness of gold, unless said word be accompanied by other words plainly indicating that such article or part thereof is made of rolled gold-plate, or gold-plate, or gold-electroplate, or is gold-filled, as the case may be, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 116. Section one hundred nineteen point eight (119.8), Code 1975, is amended to read as follows:

119.8 SILVER-PLATED ARTICLES. Any person making for sale, selling, or offering to sell or dispose of, or having in possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal having deposited or plated thereon, or brazed or otherwise affixed thereto, a plate, plating, covering, or sheet of silver or of any alloy of silver, and which article is known in the market as "silver-plate" or "silver-electroplate", or by any similar designation, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any container in which said article is encased or enclosed, the word "sterling" or the word "coin" either alone or in conjunction with any other words or marks, is guilty of a ~~misdemeanor~~ fraudulent practice.

Sec. 117. Section one hundred nineteen point nine (119.9),

Code 1975, is amended to read as follows:

119.9 VIOLATION. Every person guilty of a violation of the provisions of this chapter, and every officer, manager, director, or agent of any such person directly participating in such violation or consenting thereto, shall be ~~punished by a fine of not more than five hundred dollars or imprisonment for not more than three months, or both, at the discretion of the court~~ guilty of a simple misdemeanor; but nothing in this chapter shall apply to articles manufactured prior to June 13, 1907.

Sec. 118. Section one hundred twenty point thirteen (120.13), Code 1975, is amended to read as follows:

120.13 PENALTY. Anyone not having a certificate of registration who shall hold himself out as a watchmaker or as one qualified to do watchmaking or anyone who shall violate any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment~~.

Sec. 119. Section one hundred twenty point seventeen (120.17), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 120. Section one hundred twenty-two point six (122.6), Code 1975, is amended to read as follows:

122.6 VIOLATIONS. Any person who shall violate the provisions of this chapter or who shall solicit funds without a permit, or if under a permit thereafter divert the same to purposes other than for which said donations were contributed, shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not to exceed thirty days~~.

Sec. 121. Section one hundred twenty-three point forty-eight (123.48), subsection two (2), Code 1975, is amended to read as follows:

2. Any person under legal age who presents to any vendor falsified evidence of age as provided in subsection 1 of this section shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days~~.

Sec. 122. Section one hundred twenty-three point fifty (123.50), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any of the provisions of section 123.49 shall be ~~subject to a fine of not to exceed one hundred dollars or to imprisonment for not more than thirty days in the county jail~~ guilty of a simple misdemeanor.

Sec. 123. Section one hundred twenty-three point fifty-one (123.51), subsection four (4), Code 1975, is amended to read as follows:

4. Violations of this section shall be a simple misdemeanor ~~punishable by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding thirty days~~.

Sec. 124. Section one hundred twenty-three point eighty-seven (123.87), Code 1975, is amended to read as follows:

123.87 PROMPT SERVICE. It shall be a simple misdemeanor for any peace officer to delay service of original notices, writs of injunction, writs of abatement, or warrants for contempt in any equity case filed for injunction or abatement by the state.

Sec. 125. Section one hundred twenty-three point ninety-nine (123.99), Code 1975, is amended to read as follows:

123.99 FALSE STATEMENTS. If any person, for the purpose of procuring the shipment, transportation, or conveyance of any intoxicating liquors within this state, shall make to

any person, company, corporation, or common carrier, or to any agent thereof, any false statements as to the character or contents of any box, barrel, or other vessel or package containing such liquors; or shall refuse to give correct and truthful information as to the contents of any such box, barrel, or other vessel or package so sought to be transported or conveyed; or shall falsely mark, brand, or label such box, barrel, or other vessel or package in order to conceal the fact that the same contains intoxicating liquors; or shall by any device or concealment procure or attempt to procure the conveyance or transportation of such liquors as herein prohibited, ~~he~~ the person shall be ~~fined for each offense one hundred dollars and costs of prosecution, and be committed to the county jail until such fine and costs are paid~~ guilty of a simple misdemeanor.

Sec. 126. Section one hundred twenty-three point one hundred two (123.102), Code 1975, is amended to read as follows:

123.102 INSPECTION OF SHIPPING RECORDS. The record book required by section 123.101 shall, during business hours, be open to inspection by any peace or law enforcing officer. It shall be a simple misdemeanor to refuse such inspection.

Sec. 127. Section one hundred twenty-three point one hundred four (123.104), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

It shall be a simple misdemeanor for any corporation, common carrier, person, or any agent or employee thereof:

Sec. 128. Section one hundred twenty-seven point seven (127.7), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.7 LIQUOR SUBJECT TO FORFEITURE. The court, upon conviction, shall enter a judgment of forfeiture of the liquor and vessels seized and shall file with the clerk of the district court a certified transcript of such order.

Sec. 129. Section one hundred twenty-seven point eight (127.8), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.8 DISPOSITION OF FORFEITED LIQUORS. When a judgment

has been entered decreeing a forfeiture of any intoxicating liquors, the magistrate shall direct the disposition of such liquors and the vessels containing the same:

1. By ordering that forfeited intoxicating liquors, which have a valid unbroken federal liquor tax stamp properly affixed to the vessel and which the magistrate has no reason to believe is adulterated or contaminated, be delivered to the Iowa beer and liquor control department.

2. By ordering the destruction of forfeited intoxicating liquors which do not have a valid federal liquor tax stamp properly affixed to the vessel or which the magistrate has reason to believe is contaminated or adulterated.

3. By ordering any portion thereof consisting of alcohol, brandies, wine, or whiskey, to be delivered, for medicinal or scientific purposes, to any state or reputable hospital in the county, or in adjoining counties, or to the board of control of state institutions, or to any reputable educational institution in the state for scientific purposes.

Sec. 130. Section one hundred twenty-seven point nine (127.9), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.9 CONVEYANCE SUBJECT TO FORFEITURE. Any conveyance which is used to transport a quantity of unlawful liquor which is large enough to give rise to a presumption that the liquors are being transported for the purpose of sale and the transportation of such liquors is not incidental to the transportation of persons or other property is subject to forfeiture to the state.

Sec. 131. Section one hundred twenty-seven point eleven (127.11), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.11 PROCEDURE. Upon the filing of an information the procedure for forfeiting the conveyance shall be as follows:

1. Notice of the time and place of the forfeiture hearing shall be personally served upon all owners and lien holders of record of the seized conveyance at least thirty days prior

to the date set for hearing. The notice shall contain a reasonable description of the conveyance and the time and place of its seizure.

2. Any person having a claim to the conveyance may file a claim with the clerk of court alleging his or her claim to the vehicle and the grounds relied upon in claiming that his or her property interest in the conveyance may not be forfeited.

3. The hearing shall be held before the district court in the county in which the conveyance was seized.

4. If a judgment of forfeiture is entered, the judgment shall state the value of the conveyance and the amount forfeited and direct the sheriff to sell the conveyance as chattel under execution, and a certified copy of the judgment shall constitute an execution.

Sec. 132. Section one hundred twenty-seven point twelve (127.12), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.12 BASIS OF FORFEITURE. An order of forfeiture may only be entered upon a finding by the court that all of the following are true:

1. The quantity of liquor transported is large enough to give rise to a presumption that the liquor was being transported for the purpose of sale.

2. The transportation of the liquor was not incidental to the transportation of persons or other property.

3. One of the owners or lien holders knew or consented to the transportation of the liquor.

Sec. 133. Section one hundred twenty-seven point thirteen (127.13), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.13 EFFECT OF FORFEITURE ON OWNERS AND LIEN HOLDERS. An order of forfeiture shall only be effective against the property interest of an owner or lien holder who knew or consented to the transportation of the liquor. The property interest of an owner or lien holder who did not consent or know of the transportation of the liquor shall not be affected by the order.

Sec. 134. Section one hundred twenty-seven point twenty (127.20), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

127.20 SALE OF CONVEYANCE. Prior to placing the conveyance for sale to the general public the sheriff shall permit any owner or lien holder having a property interest of fifty percent or more in the conveyance the opportunity to purchase the property interest forfeited. If such owner or lien holder does not exercise his or her option under this section or if no such owner or lien holder exists the conveyance shall be sold at public auction with the proceeds first being applied to the owners and lien holders who have not had their property interest forfeited and then applied to the expenses of keeping the conveyance and court costs.

Sec. 135. Section one hundred thirty-five point twenty (135.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who sells or offers to sell any pipe for use in the construction, reconstruction, or modification of a water well which is not clearly marked as provided in this section or who willfully alters any markings on such pipe in violation of this section, shall be guilty of a simple misdemeanor~~, and, upon conviction, shall be fined not more than one hundred dollars or be imprisoned in the county jail not more than thirty days~~. Each violation shall constitute a separate offense.

Sec. 136. Section one hundred thirty-five point thirty-six (135.36), Code 1975, is amended to read as follows:

135.36 INTERFERENCE WITH HEALTH OFFICER. Any person resisting or interfering with the department, its employees, or authorized agents, in the discharge of any duty imposed by law shall be guilty of a simple misdemeanor.

Sec. 137. Section one hundred thirty-five point thirty-eight (135.38), Code 1975, is amended to read as follows:

135.38 PENALTY. Any person who knowingly violates any provision of this chapter, or of the rules of the department,

or any lawful order, written or oral, of the department or of its officers, or authorized agents, shall be guilty of a simple misdemeanor. ~~If said rules relate to the practice of cosmetology or barbering said misdemeanors shall be punished by a fine of not to exceed one hundred dollars or by imprisonment not to exceed thirty days.~~

Sec. 138. Section one hundred thirty-five point forty-one (135.41), Code 1975, is amended to read as follows:

135.41 PUBLICATION. The state department of health, the Iowa medical society or any of its allied medical societies or the Iowa society of osteopathic physicians and surgeons or any in-hospital staff committee shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances. A violation of this section shall constitute a simple misdemeanor ~~and be punishable as such~~.

Sec. 139. Section one hundred thirty-five B point fifteen (135B.15), Code 1975, is amended to read as follows:

135B.15 PENALTIES. Any person establishing, conducting, managing, or operating any hospital without a license shall be guilty of a serious misdemeanor ~~and upon conviction thereof shall be fined not less than one hundred dollars or more than five hundred dollars~~, and each day of continuing violation after conviction shall be considered a separate offense.

Sec. 140. Section one hundred thirty-five C point twenty-one (135C.21), Code 1975, is amended to read as follows:

135C.21 PENALTY. Any person establishing, conducting, managing, or operating any health care facility without a license shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months, or both~~.

Each day of continuing violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense. Any such person establishing, conducting, managing or operating any health care facility without a license may be by any court of competent jurisdiction temporarily or permanently restrained therefrom in any action brought by the state.

Sec. 141. Section one hundred thirty-five D point eighteen (135D.18), Code 1975, is amended to read as follows:

135D.18 PENALTY. Any person violating any provision of this chapter shall be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 142. Section one hundred thirty-seven point twenty-one (137.21), Code 1975, is amended to read as follows:

137.21 PENALTIES. Any person who violates any provision of this chapter or the rules of a local board or any lawful order of said board, its officers, or authorized agents shall be guilty of a simple misdemeanor ~~and shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days~~. Each additional day of neglect or failure to comply with such provision, rule or lawful order after notice of violation by the local board shall constitute a separate offense.

Sec. 143. Section one hundred thirty-eight point nineteen (138.19), Code 1975, is amended to read as follows:

138.19 PENALTIES. Any person failing to comply with any provision of this chapter, or with any rule or order issued pursuant to the provisions of this chapter, or interfering with, impeding, or obstructing in any manner, the commissioner, department, or any of its employees in the performance of official duties pursuant to this chapter, shall be guilty of a simple misdemeanor ~~and fined in an amount of not less than fifty dollars nor more than one hundred dollars for each such offense~~. If any person further fails to comply with any provisions of this chapter, or with any rule or order

issued pursuant to the provisions of this chapter, the commissioner shall enforce such provision, rule, or order by filing an action for injunction against such person in the district court in the county wherein such violation or violations occur.

Sec. 144. Section one hundred thirty-nine point thirty-two (139.32), Code 1975, is amended to read as follows:

139.32 PENALTY. Any person who knowingly violates any provision of this chapter, or of the rules of the state department or the local board, or any lawful order, written or oral, of said department or board, or of their officers or authorized agents, shall be guilty of a simple misdemeanor.

Sec. 145. Section one hundred forty point fifteen (140.15), Code 1975, is amended to read as follows:

140.15 PENALTY. Any person violating any of the provisions of this chapter shall be ~~punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period not to exceed thirty days, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 146. Section one hundred forty-one point six (141.6), Code 1975, is amended to read as follows:

141.6 PENALTY. A person who violates the confidentiality provision of this chapter shall be guilty of a simple misdemeanor ~~and shall, upon conviction, be punished by a fine of not more than one hundred dollars~~.

Sec. 147. Section one hundred forty-two point five (142.5), Code 1975, is amended to read as follows:

142.5 DISPOSITION AFTER DISSECTION. The remains of every body received for scientific purposes under this chapter shall be decently buried or cremated after it has been used for said purposes, and failure to do so shall be a simple misdemeanor.

Sec. 148. Section one hundred forty-two point eight (142.8), Code 1975, is amended to read as follows:

142.8 PURPOSE FOR WHICH BODY USED. The dead bodies delivered under this chapter shall be used only within the limits of this state for the purpose of scientific, medical, and

surgical study, and no person shall remove the same beyond the limits of this state or in any manner traffic therein. Any person who shall violate this section shall be ~~punished by imprisonment for a term not exceeding one year in the county jail~~ guilty of a serious misdemeanor.

This section shall not apply to bodies given under authority of the Uniform Anatomical Gift Act.

Sec. 149. Section one hundred forty-two point nine (142.9), Code 1975, is amended to read as follows:

142.9 FAILURE TO DELIVER DEAD BODY. Any person having the custody of the dead body of any human being which is required to be delivered for scientific purposes by this chapter, who shall fail to notify the state department of the existence of such body, or fail to deliver the same in accordance with the instruction of the department, shall be ~~punished by a fine not exceeding five hundred dollars~~ guilty of a simple misdemeanor.

Sec. 150. Section one hundred forty-two point ten (142.10), Code 1975, is amended to read as follows:

142.10 USE WITHOUT PROPER RECORD. Any physician or member of the instructional staff of any college or school who uses, or permits others under his or her charge to use the dead body of a human being for the purpose of medical or surgical study without the record required in section 142.6 having been made, or who shall refuse to allow any peace officer or relative of the deceased to inspect said record or body, shall be ~~punished by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both~~ guilty of a serious misdemeanor.

Sec. 151. Section one hundred forty-two point eleven (142.11), Code 1975, is amended to read as follows:

142.11 PENALTIES. Any person who shall receive or deliver any dead body of a human being knowing that any of the provisions of this chapter have been violated, shall be ~~imprisoned in the penitentiary not more than two years, or fined not exceeding twenty-five hundred dollars, or both~~ guilty of an aggravated misdemeanor.

Sec. 152. Section one hundred forty-four point fifty-two (144.52), unnumbered paragraph one (1), Code 1975, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Any person committing any of the following acts is guilty of a serious misdemeanor:

Sec. 153. Section one hundred forty-four point fifty-three (144.53), unnumbered paragraph one (1), Code 1975, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Any person committing any of the following acts is guilty of a simple misdemeanor:

Sec. 154. Section one hundred forty-seven point seventy-four (147.74), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person who falsely holds himself out by the use of any professional title or abbreviation, either in writing, cards, signs, circulars, or advertisements, to be a practitioner of a system of the healing arts other than the one under which ~~he~~ the person holds a license or who fails to use the following designations shall be guilty of a simple misdemeanor ~~and shall be fined not less than twenty-five dollars, nor more than one hundred dollars, or be sentenced to thirty days in jail~~.

Sec. 155. Section one hundred forty-seven point eighty-four (147.84), Code 1975, is amended to read as follows:

147.84 FORGERIES. Any person who shall file or attempt to file with the state department of health any false or forged diploma, or certificate or affidavit of identification or qualification, shall be guilty of ~~forgery and punished accordingly~~ a fraudulent practice.

Sec. 156. Section one hundred forty-seven point eighty-five (147.85), Code 1975, is amended to read as follows:

147.85 FRAUD. Any person who shall present to the department a diploma or certificate of which ~~he~~ the person is not the rightful owner, for the purpose of procuring a license, or who shall falsely personate anyone to whom a license has

been issued by said department shall be ~~punished as provided in section 147.86~~ guilty of a serious misdemeanor.

Sec. 157. Section one hundred forty-seven point eighty-six (147.86), Code 1975, is amended to read as follows:

147.86 PENALTIES. Any person violating any provision of this or the following chapters of this title, except insofar as said provisions apply or relate to or affect the practice of pharmacy, of cosmetology, and of barbering, shall be ~~fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 158. Section one hundred forty-seven point one hundred thirteen (147.113), Code 1975, is amended to read as follows:

147.113 VIOLATIONS. Any person failing to make the report required herein shall be guilty of a simple misdemeanor ~~and upon conviction shall be fined not to exceed one hundred dollars~~.

Sec. 159. Section one hundred forty-seven point one hundred thirty (147.130), Code 1975, is amended to read as follows:

147.130 MISDEMEANOR. It shall be a serious misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless ~~he~~ the person is the holder of a license as a nursing home administrator issued in accordance with the provisions of this division.

Sec. 160. Section one hundred forty-seven point one hundred thirty-four (147.134), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 161. Section one hundred fifty-four A point six

(154A.6), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 162. Section one hundred fifty-four A point twenty-seven (154A.27), Code 1975, is amended to read as follows:

154A.27 PENALTIES. A violation of any provisions of this chapter is ~~punishable, upon conviction, by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days in the county jail, or by both such fine and imprisonment~~ a simple misdemeanor.

Sec. 163. Section one hundred fifty-five point twenty-six (155.26), Code 1975, is amended to read as follows:

155.26 POSSESSION OF PRESCRIPTION DRUGS. Any person found in possession of a drug or medicine limited by law to dispensation by a prescription, unless such drug or medicine was so lawfully dispensed, shall be deemed guilty of ~~violating the provisions of this section, and upon conviction thereof, shall be fined not more than one thousand dollars or be imprisoned in the county jail for not more than one year, or both~~ a serious misdemeanor. This section shall not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatrist or nurse acting under the direction of a physician or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier or messenger when transporting such drug or medicine in the same unbroken package in which the drug or medicine was delivered to him or her for transportation.

Sec. 164. Section one hundred fifty-five point twenty-seven (155.27), Code 1975, is amended to read as follows:

155.27 PENALTY. Any person violating any of the provisions of this chapter or any chapter pertaining to or affecting the practice of pharmacy for which a specific penalty

is not otherwise provided, shall be deemed guilty of a simple misdemeanor~~, and upon conviction thereof, shall be fined not more than five hundred dollars or shall be imprisoned in the county jail for not more than six months, or both~~.

Sec. 165. Section one hundred fifty-five point thirty (155.30), unnumbered paragraphs two (2) and three (3), Code 1975, are amended to read as follows:

If the prescription drug is a controlled substance as defined in section 204.101, subsection 6, the person shall be punished pursuant to section 204.401, subsection 1, and section 204.411. If the prescription drug is not a controlled substance, the person shall upon conviction of a first offense be ~~fined not more than one thousand dollars or be imprisoned in the county jail for not more than one year, or both~~ guilty of a serious misdemeanor. For a second offense, or if in case of a first conviction of violation of any provision of section 155.29 or of violation of any provision of this section, the offender shall previously have been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~upon conviction~~ shall be ~~fined not more than two thousand dollars and be imprisoned in the state penitentiary not less than two or more than five years~~ guilty of an aggravated misdemeanor. For a third or subsequent offense in violation of this section or in violation of section 155.29, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender ~~upon conviction~~ shall be ~~fined not more than five thousand dollars and be imprisoned in the state penitentiary not less than five or more than ten years~~ guilty of a class "D" felony.

Any person violating any provision of this chapter by selling, giving away, or administering any prescription drug to a minor shall ~~upon conviction thereof be punished by imprisonment in the state penitentiary for not less than five or more than twenty years~~ be guilty of a class "C" felony.

Sec. 166. Section one hundred fifty-six point twelve (156.12), Code 1975, is amended to read as follows:

156.12 FUNERAL DIRECTORS AND EMBALMERS--SOLICITATION OF BUSINESS--PENALTY. Every funeral director or embalmer, or any person acting for him or her, who pays or causes to be paid, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business for such funeral director or embalmer, and every person who accepts or offers to accept any money or other thing of value as a commission or gratuity from a funeral director or embalmer in order to secure business for him or her shall be deemed guilty of a simple misdemeanor~~, and upon conviction thereof shall be fined not more than five hundred dollars or shall be imprisoned in the county jail for not less than thirty days, or both~~; provided that nothing herein contained shall be construed as prohibiting any person, firm, cooperative burial association or corporation, subject to the provisions of this chapter, from using legitimate and honest advertising.

Sec. 167. Section one hundred fifty-nine point seventeen (159.17), Code 1975, is amended to read as follows:

159.17 INTERFERENCE WITH DEPARTMENT. Any person resisting or interfering with the department, its employees or authorized agents, in the discharge of any duty imposed by law shall be guilty of a simple misdemeanor.

Sec. 168. Section one hundred sixty-two point thirteen (162.13), unnumbered paragraphs one (1) and two (2), Code 1975, are amended to read as follows:

Operation of a pound, animal shelter, pet shop, boarding kennel, commercial kennel, hobby kennel or public auction, as defined in section 162.2, or dealing in dogs or cats, or both, either as a dealer or a commercial breeder, without a currently valid license or a certificate of registration shall constitute a simple misdemeanor and each day of such operation shall constitute a separate offense. ~~Upon conviction, a violator shall be fined not more than one hundred dollars or imprisoned in the county jail not more than thirty~~

~~days.~~

Failure of any person licensed or registered to adequately house, feed or water dogs or cats, or both, in his or her possession or custody or failure of any operator of a licensed pet shop to adequately house, feed, or water any vertebrate animal shall constitute a simple misdemeanor. ~~Upon conviction, a violator shall be fined not more than one hundred dollars or imprisoned in the county jail not more than thirty days.~~ Such animals shall be subject to seizure and impoundment and may be sold or destroyed by euthanasia at the discretion of the secretary and such failure shall also constitute grounds for revocation of license after public hearing. The commission of an act declared to be an unlawful practice under section 713.24, by any person licensed under this chapter shall constitute grounds for revocation of license.

Sec. 169. Section one hundred sixty-two point fifteen (162.15), Code 1975, is amended to read as follows:

162.15 VIOLATION BY ANIMAL WARDEN. Violation of any provision of this chapter which relates to the seizing, impoundment, and custody of an animal by an animal warden shall constitute a simple misdemeanor and each animal handled in violation shall constitute a separate offense. ~~Upon conviction, a violator shall be fined not more than one hundred dollars or imprisoned in the county jail not more than thirty days.~~

Sec. 170. Section one hundred sixty-three point eighteen (163.18), Code 1975, is amended to read as follows:

163.18 FALSE REPRESENTATION. Any person who knowingly makes any false representation as to the purpose for which a shipment of animals is being or will be made, with intent to avoid or prevent an inspection of such animals for the purpose of determining whether the animals are free from disease, shall be guilty of a simple misdemeanor ~~and punished as provided in this chapter~~.

Sec. 171. Section one hundred sixty-three point twenty-one (163.21), Code 1975, is amended to read as follows:

163.21 PENALTIES. Any person who shall violate any provi-

sion of this chapter or any rule adopted thereunder by the department shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year~~ guilty of a simple misdemeanor.

Sec. 172. Section one hundred sixty-three point twenty-three (163.23), Code 1975, is amended to read as follows:

163.23 FALSE CERTIFICATES OF HEALTH--PENALTY. Any veterinarian issuing a certificate of health for an animal knowing that the animal described therein was not the animal from which the tests were made as a basis for the certificate or who otherwise falsifies any such certificate shall be guilty of a ~~misdemeanor and punished as provided in this chapter~~ fraudulent practice.

Sec. 173. Section one hundred sixty-three point twenty-four (163.24), Code 1975, is amended to read as follows:

163.24 USING FALSE CERTIFICATE. Any person, firm, or corporation importing, exporting, or transporting within this state or selling or offering for sale any animal for which a certificate of health has been issued and who uses such certificate in connection with any of said transactions knowing that the animal described in said certificate was not the animal from which the tests were made as a basis for the certificate or who knowingly uses any altered or otherwise false certificate in connection with any of said transactions shall be guilty of a ~~misdemeanor and punished as provided in this chapter~~ fraudulent practice.

Sec. 174. Section one hundred sixty-three point twenty-five (163.25), Code 1975, is amended to read as follows:

163.25 ALTERING CERTIFICATE. Any person, firm, or corporation removing or altering on any animal, tested or being tested for disease, any tag or mark of identification authorized by the department or inserted by any qualified veterinarian or altering any certificate of vaccination by one authorized to vaccinate animals shall be guilty of a ~~misdemeanor and punished as provided in this chapter~~ fraudulent practice.

Sec. 175. Section one hundred sixty-three point twenty-nine (163.29), Code 1975, is amended to read as follows:

163.29 PENALTY. Any person, firm, partnership, or corporation violating the provisions of this division shall, ~~upon conviction thereof,~~ be ~~fined not less than one hundred dollars and not to exceed five hundred dollars~~ guilty of a simple misdemeanor. Each day the provisions of section 163.27, or any rule made pursuant thereto, is violated shall be a separate offense.

Sec. 176. Section one hundred sixty-three A point ten (163A.10), Code 1975, is amended to read as follows:

163A.10 PENALTY. Any person who shall violate any provision of this chapter or any rule adopted thereunder by the department of agriculture shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year~~ guilty of a serious misdemeanor.

Sec. 177. Section one hundred sixty-four point thirty-one (164.31), Code 1975, is amended to read as follows:

164.31 PENALTIES. Any person found guilty of violating the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and punished by a fine not to exceed one hundred dollars on first offense, two hundred dollars on second offense, and three hundred dollars on the third and all subsequent offenses~~.

Sec. 178. Section one hundred sixty-five point twenty-seven (165.27), Code 1975, is amended to read as follows:

165.27 PENALTY. Any owner of dairy or breeding cattle in the state who prevents, hinders, obstructs, or refuses to allow a veterinarian authorized by the department of agriculture to conduct such tests for tuberculosis on ~~his~~ the owner's cattle, shall be deemed guilty of a simple misdemeanor ~~and shall be punished by a fine of not more than one hundred dollars, nor less than twenty-five dollars~~.

Sec. 179. Section one hundred sixty-five point thirty-three (165.33), Code 1975, is amended to read as follows:

165.33 PENALTY. Any person found guilty of violating

the provisions of section 165.32 shall be deemed guilty of a simple misdemeanor ~~and punished by a fine of not to exceed one hundred dollars nor less than twenty five dollars~~.

Sec. 180. Section one hundred sixty-six point thirty-eight (166.38), Code 1975, is amended to read as follows:

166.38 COMPENSATION. No licensed veterinarian shall receive, directly or indirectly, any compensation of any kind for the handling, sale, or use of any biological products, other than ~~his~~ the veterinarian's charges for administering the same, unless ~~he~~ the veterinarian makes known in writing the amount of such compensation, if requested to do so by the person using biological products. Any veterinarian violating this section shall ~~forfeit his license to practice and the same shall not be renewed for a period of one year~~ be guilty of a simple misdemeanor.

Sec. 181. Section one hundred sixty-six A point fourteen (166A.14), Code 1975, is amended to read as follows:

166A.14 PENALTY. Any person, firm or partnership or corporation violating the provisions of this chapter shall ~~upon conviction thereof be fined not less than one hundred dollars and not to exceed five hundred dollars~~ be guilty of a simple misdemeanor.

Sec. 182. Section one hundred sixty-seven point nineteen (167.19), Code 1975, is amended to read as follows:

167.19 PENALTY. The violation of any of the provisions of this chapter or any rule adopted thereunder by the department shall be ~~punishable by a fine of not less than five dollars nor more than one hundred dollars or by imprisonment in the county jail not more than thirty days~~ guilty of a simple misdemeanor.

Sec. 183. Section one hundred sixty-eight point eight (168.8), Code 1975, is amended to read as follows:

168.8 PUNISHMENT. Any person, partnership, corporation, company, firm, society, or association who violates any provision of this chapter shall be guilty of a simple misdemeanor ~~and shall be punished by a fine not exceeding one hundred dollars~~.

Sec. 184. Section one hundred sixty-nine point forty-three (169.43), Code 1975, is amended to read as follows:

169.43 FORGERIES. Any person who shall file or attempt to file with the department of agriculture any false or forged diploma, or certificate or affidavit of identification or qualification, shall be guilty of ~~forgery and punished accordingly~~ a fraudulent practice.

Sec. 185. Section one hundred sixty-nine point forty-five (169.45), Code 1975, is amended to read as follows:

169.45 PENALTY. Any person who violates any provision of this chapter shall be guilty of a simple misdemeanor.

Sec. 186. Section one hundred sixty-nine point fifty-six (169.56), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 187. Section one hundred seventy point thirty-eight (170.38), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The state fire marshal shall adopt, amend, promulgate, and enforce such rules and standards relating to fire protection and fire safety in hotels, restaurants and food establishments, but such rules shall be promulgated only after public hearing. Any person, firm or corporation violating any of said rules of said fire marshal shall be deemed guilty of a simple misdemeanor, ~~and upon conviction thereof shall be punished by a fine of not less than twenty five dollars nor more than one hundred dollars,~~ and each day of a continuing violation after conviction shall be considered a separate offense.

Sec. 188. Section one hundred seventy point forty-nine (170.49), Code 1975, is amended to read as follows:

170.49 PENALTY. Any person who shall violate any provi-

sion of this chapter shall be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 189. Section one hundred seventy-one point sixteen (171.16), Code 1975, is amended to read as follows:

171.16 PENALTIES. Any person violating any of the provisions of this chapter shall be ~~punished for the first offense by a fine of not less than twenty five dollars nor more than one hundred dollars, and for the second offense by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 190. Section one hundred seventy-two point eleven (172.11), Code 1975, is amended to read as follows:

172.11 PENALTIES. Any person who shall violate any provision of this chapter shall be ~~fined not less than twenty five dollars nor more than one hundred dollars or be imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 191. Section one hundred seventy-four point seven (174.7), Code 1975, is amended to read as follows:

174.7 REFUSAL TO REMOVE OBSTRUCTIONS. Any person owning, occupying, or using any such obstruction who shall refuse or fail to remove the same when ordered to do so by the management shall be ~~liable to a fine of not less than five dollars nor more than one hundred dollars for each such offense~~ guilty of a simple misdemeanor.

Sec. 192. Section one hundred seventy-four point twenty-one (174.21), Code 1975, is amended to read as follows:

174.21 VIOLATIONS--PENALTY. Any person convicted of a violation of section 174.20 shall be ~~imprisoned in the penitentiary for a period of not more than three years, or in the county jail for not more than one year, and be fined in a sum not exceeding one thousand dollars~~ guilty of a fraudulent practice.

Sec. 193. Section one hundred seventy-six point fourteen

(176.14), Code 1975, is amended to read as follows:

176.14 DIVIDENDS--DIVERSION OF FUNDS. No dividend shall ever be declared by the association and any diversion of the funds or property of such organization to any other purpose than that for which such organization was incorporated shall constitute ~~larceny and be punished accordingly~~ theft.

Sec. 194. Section one hundred seventy-seven A point sixteen (177A.16), Code 1975, is amended to read as follows:

177A.16 VIOLATIONS. Any person, copartnership, association or corporation, or any combination of individuals, violating any provision of a quarantine promulgated under the authority of this chapter, or of any rules issued supplemental thereto, shall be guilty of a simple misdemeanor ~~and upon conviction thereof be punished by imprisonment in the county jail not exceeding thirty days or by a fine of not less than twenty five dollars nor more than one hundred dollars for each offense~~.

Sec. 195. Section one hundred seventy-seven A point eighteen (177A.18), Code 1975, is amended to read as follows:

177A.18 VIOLATIONS. Any person who shall violate any provision or requirement of this chapter, or of the rules made or of any notice given pursuant thereto, or who shall forge, counterfeit, deface, destroy, or wrongfully use, any certificate provided for in this chapter, or in the rules and regulations made pursuant thereto, shall be deemed guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars or by imprisonment for not more than thirty days~~.

Sec. 196. Section one hundred seventy-seven A point nineteen (177A.19), subsection four (4), Code 1975, is amended to read as follows:

4. The ~~penalties~~ procedures provided in section 177A.17 and all other applicable provisions of sections 177A.5 to 177A.18 shall govern and apply to the enforcement of this section.

Sec. 197. Section one hundred seventy-nine point eleven

(179.11), Code 1975, is amended to read as follows:

179.11 PENALTIES. ~~Any~~ Except as otherwise provided, any person who shall violate or aid in the violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail not to exceed thirty days~~. All prosecutions for alleged violations of the provisions of this chapter shall be by the county attorney of the county in which such alleged violation occurred and shall be instituted and conducted under the direction and authority of the attorney general of the state.

Sec. 198. Section one hundred eighty-one point twenty (181.20), Code 1975, is amended to read as follows:

181.20 MISDEMEANORS. Any person who shall violate or assist in the violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor.

Sec. 199. Section one hundred eighty-four A point fifteen (184A.15), Code 1975, is amended to read as follows:

184A.15 MISDEMEANOR. It is a simple misdemeanor for any person to willfully violate any provision of this chapter, or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the council or secretary.

Sec. 200. Section one hundred eighty-five point thirty-one (185.31), Code 1975, is amended to read as follows:

185.31 PENALTY. It is a simple misdemeanor for any person to willfully violate any provision of this chapter or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the secretary.

Sec. 201. Section one hundred eighty-seven point seven (187.7), Code 1975, is amended to read as follows:

187.7 UNLAWFUL USE OF BRAND. It shall be unlawful to use any brand for branding any horses, cattle, sheep, mules, or asses unless the brand has been recorded as provided by this chapter. Hot brands and cryo-brands, consisting of

Arabic numerals only, may be used in conjunction with recorded brands for within the herd identification and as such shall not be recorded; and when so used shall not be evidence of ownership. Anyone convicted of violating this section shall be ~~fined a sum not to exceed one hundred dollars or imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 202. Section one hundred eighty-seven point fourteen (187.14), Code 1975, is amended to read as follows:

187.14 TAMPERING WITH BRAND. Any person who shall brand, attempt to brand, or cause to be branded the animals of another, or who shall efface, deface, or obliterate or attempt to efface, deface, or obliterate any brand upon any animal or animals of another, or who shall brand, attempt to brand, or cause to be branded the recorded brand of another on any animal shall be ~~imprisoned in the penitentiary not to exceed two years or fined not to exceed one thousand dollars, or both~~ guilty of a fraudulent practice.

Sec. 203. Section one hundred eighty-eight point forty (188.40), Code 1975, is amended to read as follows:

188.40 PENALTY AGAINST FINDER. If any person shall sell, trade, or take out of the state any estray before the legal title shall have vested in ~~him~~ the person, he or she shall forfeit to the owner double its value, and shall also be guilty of a simple misdemeanor.

Sec. 204. Section one hundred eighty-eight point forty-six (188.46), Code 1975, is amended to read as follows:

188.46 PENALTY. Any officer who fails to perform the duties enjoined upon ~~him~~ the officer in this chapter in relation to estrays, shall be ~~fined not less than five dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 205. Section one hundred eighty-nine point twenty-one (189.21), Code 1975, is amended to read as follows:

189.21 PENALTY. Unless otherwise provided, any person violating any provision of this title, or any rule made by the department and promulgated under the authority of said department, shall be ~~punished by a fine of not less than ten~~

~~dollars nor more than one hundred dollars or by imprisonment in the county jail not to exceed thirty days, and on a third conviction for the same offense may be restrained by injunction from operating such place of business~~ guilty of a simple misdemeanor.

Sec. 206. Section one hundred eighty-nine A point seventeen (189A.17), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any provisions of this chapter for which no other criminal penalty is provided shall ~~upon conviction be subject to imprisonment in the county jail for not more than one year, or a fine of not more than one thousand dollars, or both such imprisonment and fine~~ be guilty of a simple misdemeanor; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated, except as defined in section 189A.2, subsection 15, paragraph "h" such person shall be ~~subject to imprisonment in the penitentiary for not more than three years or a fine of not more than ten thousand dollars or both~~ guilty of a fraudulent practice.

Sec. 207. Section one hundred eighty-nine A point twenty (189A.20), Code 1975, is amended by striking unnumbered paragraph one (1).

Sec. 208. Section one hundred ninety-one point three (191.3), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person violating any provision of this section shall ~~upon conviction or plea of guilty be punished, for the first offense by a fine of one hundred dollars, for the second offense by a fine of three hundred dollars, for the third offense by a fine of five hundred dollars~~ be guilty of a simple misdemeanor and the suspension for one year of all licenses issued by the state of Iowa for the public eating place in which said violation occurred.

Sec. 209. Section one hundred ninety-one point five (191.5), Code 1975, is amended to read as follows:

191.5. ADVERTISING OLEOMARGARINE--RESTRICTIONS. No person,

by himself, or agent, shall, by any means whatever, directly or indirectly, advertise or represent by statement, printing, writing, circular, poster, design, device, grade designation, advertisement, symbol, sound, or any combination thereof, that oleo, oleomargarine or margarine, or any brand of oleo, oleomargarine or margarine, is a dairy product for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase for consumption of oleo, oleomargarine or margarine, or any brand thereof. Whoever shall violate this provision shall be deemed guilty of a simple misdemeanor.

Sec. 210. Section one hundred ninety-one A point twelve (191A.12), Code 1975, is amended to read as follows:

191A.12 PENALTY. Any person who violates any provision of this chapter shall, upon conviction, be ~~fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 211. Section one hundred ninety-two point sixty-six (192.66), subsection eight (8), Code 1975, is amended to read as follows:

8. Any person violating any provisions of this section shall be ~~punished by a fine of not more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 212. Section one hundred ninety-two A point nineteen (192A.19), Code 1975, is amended to read as follows:

192A.19 REPORTS AND ANSWERS TO DEPARTMENT. Whenever the department has reason to believe that any distributor or retailer or processor may be in possession of information relevant to an investigation by it of suspected violations of the provisions of this chapter, the secretary may require such person to file with ~~him~~ the secretary in such form as ~~he~~ the secretary may prescribe special reports or answers in writing to specific questions furnishing such information. Such reports and answers shall be made under oath or otherwise as the secretary may prescribe and shall be filed with ~~him~~ the secretary within such reasonable period as ~~he~~ the secretary may prescribe. Any person who fails without lawful cause to file such reports or answers in writing within the period

prescribed or shall willfully make or cause to be made any false statements in any such report or answer in writing shall be guilty of a simple misdemeanor ~~and upon conviction thereof fined not less than five hundred dollars nor more than one thousand dollars~~.

Sec. 213. Section one hundred ninety-four point twenty (194.20), Code 1975, is amended to read as follows:

194.20 PENALTY. Any person who, by himself or herself or by his or her agent or employee, willfully violates any requirement of this chapter shall be ~~fined not less than fifty dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 214. Section one hundred ninety-five point twenty-seven (195.27), Code 1975, is amended to read as follows:

195.27 PENALTIES. Any person who, by himself or herself or by his or her agent or employee, willfully violates any requirement of this chapter shall be ~~fined not less than twenty-five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 215. Section one hundred ninety-six point eighteen (196.18), Code 1975, is amended to read as follows:

196.18 PENALTY. Any person found guilty of any violation of this chapter shall~~, upon conviction for the first offense, be fined twenty-five dollars; for the second offense, he shall be fined one hundred dollars; and for the third and subsequent offenses, he shall be fined two hundred dollars~~ be deemed to have committed a simple misdemeanor. In addition to such fines, the court for the third offense shall suspend ~~his~~ the person's license for thirty days; and for the fourth and any subsequent offense, such person's license shall be revoked for a period of one year.

Sec. 216. Section one hundred ninety-six A point twenty-three (196A.23), Code 1975, is amended to read as follows:

196A.23 PENALTY. Any person who willfully violates any provision of this chapter, willfully gives a false report, statement, or record required by the council, or willfully fails to furnish or render any report, statement or record

required by the secretary shall be guilty of a simple misdemeanor.

Sec. 217. Section one hundred ninety-seven point six (197.6), Code 1975, is amended to read as follows:

197.6 VIOLATIONS. Any person who shall violate the provisions of this chapter shall, for each offense, be deemed guilty of a simple misdemeanor ~~and punishable as such~~.

Sec. 218. Section one hundred ninety-eight point thirteen (198.13), subsection one (1), Code 1975, is amended to read as follows:

1. Any person convicted of violating any of the provisions of this chapter or who shall impede, hinder or otherwise prevent, or attempt to prevent, said secretary or ~~his~~ the secretary's authorized agent in performance of his or her duty in connection with the provisions of this chapter, shall be guilty of a simple misdemeanor ~~and shall be fined not less than twenty-five dollars or more than one hundred dollars for the first violation, and not less than fifty dollars or more than three hundred dollars for a subsequent violation~~.

Sec. 219. Section one hundred ninety-nine point thirteen (199.13), Code 1975, is amended to read as follows:

199.13 PENALTY. Every violation of the provisions of this chapter shall be deemed a simple misdemeanor~~, punishable by a fine of not more than two hundred fifty dollars~~. The department of agriculture through its duly authorized agent or agents, may institute proceedings in a court of competent jurisdiction to enforce the provisions of this chapter.

Sec. 220. Section two hundred point eighteen (200.18), subsection two (2), Code 1975, is amended to read as follows:

2. Any person ~~convicted of~~ violating any provision of this chapter or the rules and regulations issued thereunder shall be ~~punished by a fine of not less than one hundred dollars nor more than two hundred fifty dollars~~ guilty of a simple misdemeanor.

Sec. 221. Section two hundred one point eleven (201.11), unnumbered paragraph one (1), Code 1975, is amended to read

as follows:

Whoever sells, offers for sale, or exposes for sale or distribution any bulk agricultural lime, limestone, or aglime without complying with the provisions of this chapter, or permits any certification to accompany or be printed or stamped on any bill of lading, scale ticket, ticket, or delivery receipt or other instrument of sale, shipping or delivery, stating that the agricultural lime, limestone, or aglime contains a different number of pounds of ECCE than certified as provided in this chapter, or who shall adulterate any agricultural lime, limestone, or agline with foreign mineral matter or other foreign substances, or who shall adulterate the same with any substance injurious to the growth of plants, or make any false report, shall be deemed guilty of a simple misdemeanor. ~~On conviction thereof, such person shall be fined not less than fifty dollars nor more than one hundred dollars.~~ The secretary of agriculture may revoke the license of any person so convicted.

Sec. 222. Section two hundred one point fourteen (201.14), Code 1975, is amended to read as follows:

201.14 MISDEMEANOR. Any person who shall obstruct the secretary of agriculture or ~~his~~ the secretary's agents or representatives when in the discharge of any duty or duties prescribed by this chapter shall be deemed to be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for the first offense, and for each subsequent offense by a fine of not less than fifty dollars nor more than thirty days in jail, or by both such fine and imprisonment~~.

Sec. 223. Section two hundred three A point five (203A.5), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who violates any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and shall on conviction thereof be subject to imprisonment for not more than six months in the county jail or a fine of not more than five hundred dollars, or both such imprisonment and fine,~~

but if the violation is committed after a conviction of such person under this section has become final, such person shall be ~~subject to imprisonment for not more than one year in the county jail, or a fine of not more than one thousand dollars, or both such imprisonment and fine~~ guilty of an aggravated misdemeanor.

Sec. 224. Section two hundred four point four hundred one (204.401), subsection one (1), paragraphs a, b, c, and d, Code 1975, are amended to read as follows:

a. A substance classified in schedule I or II which is a narcotic drug, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed ten years and by a fine of not more than two thousand dollars~~ class "C" felony.

b. Any other controlled substance classified in schedules I, II, or III, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed five years and by a fine of not more than one thousand dollars~~ class "D" felony.

c. A substance classified in schedule IV, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year or by a fine of not more than five hundred dollars, or by both such imprisonment and fine~~ serious misdemeanor.

d. A substance classified in schedule V, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed six months or by a fine of not more than two hundred fifty dollars, or both such imprisonment and fine~~ simple misdemeanor.

Sec. 225. Chapter two hundred four (204), Code 1975, is amended by adding the following new section:

NEW SECTION. MANDATORY MINIMUM SENTENCE. A person sentenced pursuant to section two hundred four point four hundred one (204.401), subsection one (1), paragraph a or b of the Code, shall not be eligible for parole until he or she has served a minimum period of confinement of one-third of the maximum indeterminant sentence prescribed by law.

This section shall not apply if:

1. The offense is found to be an accommodation pursuant to section two hundred four point four hundred ten (204.410) of the Code; or

2. The controlled substance is marijuana.

Sec. 226. Section two hundred four point four hundred one (204.401), subsection two (2), paragraphs a, b, c, and d, Code 1975, are amended to read as follows:

a. A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed ten years, and by a fine of not more than two thousand dollars~~ class "C" felony.

b. Any other counterfeit substance classified in schedules I, II, or III, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed five years and by a fine of not more than one thousand dollars~~ class "D" felony.

c. A counterfeit substance classified in schedule IV, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year or by a fine of not more than five hundred dollars, or by both such imprisonment and fine~~ serious misdemeanor.

d. A counterfeit substance classified in schedule V, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed six months or by a fine of not more than two hundred fifty dollars, or by both such imprisonment and fine~~ simple misdemeanor.

Sec. 227. Section two hundred four point four hundred two (204.402), subsection two (2), paragraphs a and b, Code 1975, are amended to read as follows:

a. Of a violation of paragraphs "a", "b", "d", or "e" shall be ~~punished by imprisonment in the penitentiary for not to exceed one year or by a fine of not more than one thousand dollars, or both such imprisonment and fine~~ an aggravated misdemeanor.

b. Of a violation of paragraph "c" shall be ~~punished by a fine of not more than five hundred dollars if the conviction is the defendant's first under this chapter or under any state or federal statute relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, and by imprisonment in the penitentiary for not to exceed one year, or by a fine of not more than one thousand dollars, or both such imprisonment and fine if the defendant has previously been so convicted~~ a serious misdemeanor.

Sec. 228. Section two hundred four point four hundred three (204.403), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who violates this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate this section, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed one year and by a fine of not more than one thousand dollars~~ serious misdemeanor.

Sec. 229. Section two hundred four point four hundred six (204.406), Code 1975, is amended to read as follows:

204.406 DISTRIBUTION TO PERSONS UNDER AGE EIGHTEEN. Any person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing a substance listed in schedule I or II, which is a narcotic drug, to a person under eighteen years of age, shall be ~~punished by a fine and by a term of imprisonment not to exceed twice that authorized by section 204.401, subsection 1, paragraph "a"~~ guilty of a class "B" felony, however the minimum time to be served before parole may be granted shall be five years. Any person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing any other controlled substance listed in schedules I, II, or III, ~~IV, or V~~ to a person under eighteen years of age who is at least three years his or her junior shall be ~~punished by a fine not to exceed that authorized by section 204.401, subsection 1, paragraph~~

~~"b" or "c", or by a term of imprisonment not to exceed one and one-half times that authorized by section 204.401, subsection 1, paragraph "b" or "c", or by both such fine and imprisonment~~ guilty of a class "C" felony. Any person who is eighteen years of age or over who violates section two hundred four point four hundred one (204.401), subsection one (1) of the Code by distributing any controlled substance listed in schedules four (IV) and five (V) to a person under eighteen years of age who is at least three years his junior shall be guilty of an aggravated misdemeanor.

Sec. 230. Section two hundred four point four hundred seven (204.407), unnumbered paragraphs three (3) and four (4), Code 1975, are amended to read as follows:

Any person who violates this section and where the controlled substance is any one other than marijuana is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed five years or by a fine of not to exceed ten thousand dollars or by both such imprisonment and fine~~ class "D" felony.

Any person who violates this section, and where the controlled substance is marijuana only, is guilty of a ~~public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year or by a fine of not to exceed one thousand dollars or by both such fine and imprisonment~~ serious misdemeanor.

Sec. 231. Section two hundred four point four hundred ten (204.410), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

204.410 ACCOMMODATION OFFENSE. In a prosecution for unlawful delivery or possession with intent to deliver a controlled substance, if the prosecution proves that the defendant violated the provisions of section two hundred four point four hundred one (204.401), subsection one (1), of the Code, but fails to prove that the defendant delivered or possessed with intent to deliver the controlled substance for the purpose of making a profit, the defendant shall be guilty of an accommodation offense and shall be sentenced

as if he had been convicted of a violation of section two hundred four point four hundred one (204.401), subsection three (3) of the Code. An accommodation offense may be proved as an included offense under a charge of delivering or possessing with the intent to deliver a controlled substance in violation of section two hundred four point four hundred one (204.401), subsection one (1), of the Code.

The effective date of this section shall be July 1, 1976.

Sec. 232. Section two hundred four point five hundred five (204.505), subsection four (4), Code 1975, is amended by striking the subsection and inserting in lieu thereof the following:

4. The disposition of property, other than conveyances subject to forfeiture, which has been taken or detained under this chapter shall be made in accordance with division nine (IX) of chapter two (2) of this Act.

However, controlled substances taken, detained, or forfeited shall be disposed of as provided by section two hundred four point five hundred six (204.506) of the Code. Such property shall not be subject to replevin.

Sec. 233. Section two hundred five point ten (205.10), Code 1975, is amended to read as follows:

205.10 FALSE REPRESENTATIONS. Any person who obtains any poison enumerated in section 205.5 under a false name or statement shall be guilty of a ~~misdemeanor and punished as provided in chapter 489~~ fraudulent practice.

Sec. 234. Section two hundred six point twenty-two (206.22), Code 1975, is amended to read as follows:

206.22 PENALTIES.

1. Any person violating section 206.11, subsection 1, paragraph "a", shall be guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars.~~

2. Any person violating any provision of this chapter other than section 206.11, subsection 1, paragraph "a", shall be guilty of a serious misdemeanor ~~and upon conviction shall be fined not more than five hundred dollars for the first~~

~~offense and upon conviction for a subsequent offense shall be fined not more than one thousand dollars~~; provided, that any offense committed more than five years after a previous conviction shall be considered a first offense; and provided, further, that in any case where a registrant was issued a warning by the secretary pursuant to the provisions of this chapter, such registrant shall upon conviction of a violation of any provision of this chapter other than section 206.11, subsection 1, paragraph "a", be ~~fined not more than one thousand dollars, or imprisoned for not more than one year, or be subject to both such fine and imprisonment~~ guilty of a serious misdemeanor; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article, the registration of which has been terminated, may not again be registered unless the article, its labeling, and other material required to be submitted appear to the secretary to comply with all the requirements of this chapter.

3. Notwithstanding any other provisions of the section, in case any person, with intent to defraud, uses or reveals information relative to formulae of products acquired under authority of section 206.12, he shall be ~~fined not more than one thousand dollars or imprisoned for not more than one year, or both~~ guilty of a serious misdemeanor.

Sec. 235. Section two hundred eight A point eleven (208A.11), Code 1975, is amended to read as follows:

208A.11 PENALTY. If any person, partnership, corporation, or association shall violate the provisions of this chapter, such person, partnership, corporation or association shall be deemed guilty of a simple misdemeanor and, upon conviction thereof, ~~shall be punished according to the general provisions of title X and~~ the department may after due hearing cancel registration.

Sec. 236. Section two hundred ten point twenty-one (210.21), Code 1975, is amended to read as follows:

210.21 VIOLATIONS. It shall be unlawful for any person to manufacture, procure, or keep for the purpose of sale,

offer or expose for sale, or sell bread in the form of loaves which are not of one of the weights specified in section 210.19 or violate the rules of the secretary of agriculture pertaining thereto. Any person who, by himself or herself or by his or her servant, or agent, or as the servant or agent of another, shall violate any of the provisions of sections 210.19 to 210.25, shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars upon conviction in any court of competent jurisdiction, or by imprisonment for not more than thirty days, in the discretion of the court~~.

Sec. 237. Section two hundred eleven point two (211.2), Code 1975, is amended to read as follows:

211.2 VIOLATIONS. Any person or corporation failing to keep such record or refusing to offer the same for inspection when requested at a reasonable time by the peace officer, shall be guilty of a simple misdemeanor ~~and punished by a fine not exceeding one hundred dollars~~.

Sec. 238. Section two hundred fourteen point eight (214.8), Code 1975, is amended to read as follows:

214.8 PENALTY. Any weighmaster violating any of the provisions of sections 214.6 and 214.7, shall be guilty of a simple misdemeanor, ~~and punished as provided in chapter 189~~ and be liable to the person injured for all damages sustained.

Sec. 239. Section two hundred fourteen A point eleven (214A.11), Code 1975, is amended to read as follows:

214A.11 VIOLATIONS. Any person violating the provisions of this chapter shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of not to exceed one hundred dollars or imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 240. Section two hundred fifteen point twenty (215.20), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating any provision of this section is guilty of a simple misdemeanor ~~and, upon conviction shall be punished as provided by law~~.

Sec. 241. Section two hundred fifteen A point ten (215A.10), Code 1975, is amended to read as follows:

215A.10 PENALTY. Every person who uses or causes to be used a moisture-measuring device in commerce with knowledge that such device has not been inspected and approved by the department in accordance with the provisions of this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period not to exceed thirty days or both such fine and imprisonment~~.

Sec. 242. Section two hundred seventeen point fourteen (217.14), subsection seven (7), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

The commissioner of social services may establish for any inmate sentenced pursuant to ~~section 789.13~~ chapter three (3), section two hundred two (202) of this Act a furlough program under which inmates sentenced to and confined in an institution under the jurisdiction of the department of social services may be temporarily released. Furloughs for a period not to exceed fourteen days may be granted when an immediate member of the 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 the inmate to participate in programs or activities that serve rehabilitative objectives. The commissioner of social services shall promulgate rules and regulations to carry out the provisions of this paragraph.

Sec. 243. Section two hundred eighteen point ninety-one (218.91), Code 1975, is amended to read as follows:

218.91 BOYS TRANSFERRED FROM TRAINING SCHOOL TO REFORMATORY. The director of the division of child and family services with the consent and approval of the director of the division of corrections of the department of social services may order the transfer of inmates of the training school for boys to the men's reformatory for custodial care whenever

it is determined that such action will be conducive to the welfare of the other inmates of the school. Such transfer shall be effected by application in writing to the district court, or any judge thereof, of the county in which the said training school is situated. Upon the granting of the order of transfer, the transfer shall take place. The county attorney of the said county shall appear in support of such application. The cost of the transfer shall be paid from the funds of the training school for boys. Subsequent to a transfer made under this section, the person transferred shall be subject to all the provisions of law and regulations of the institution to which he is transferred, and for the purposes of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act such person shall be regarded as having been committed to the institution.

Sec. 244. Section two hundred twenty-two point forty-seven (222.47), Code 1975, is amended to read as follows:

222.47 PENALTY FOR FALSE PETITION OF COMMITMENT. Any person who shall maliciously seek to have any person adjudged mentally retarded, knowing that such person is not mentally retarded, shall be ~~fined not exceeding one thousand dollars or imprisoned not exceeding one year in the county jail~~ guilty of a fraudulent practice.

Sec. 245. Section two hundred twenty-three point four (223.4), subsection two (2), Code 1975, is amended to read as follows:

2. Commitments by the courts as mentally incompetent to stand trial under chapter ~~783~~ two (2), section one thousand two hundred four (1204) of this Act.

Sec. 246. Section two hundred twenty-four A point six (224A.6), Code 1975, is amended to read as follows:

224A.6 PENALTIES. Any person who violates any provision of this chapter shall~~, upon conviction,~~ be ~~fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 247. Section two hundred twenty-nine point thirty-eight (229.38), Code 1975, is amended to read as follows:

229.38 CRUELTY OR OFFICIAL MISCONDUCT. If any person having the care of a mentally ill person, and restraining him or her, whether in a hospital or elsewhere, with or without authority, shall treat him or her with unnecessary severity, harshness, or cruelty, or in any way abuse him or her, or if any officer required by the provisions of this and chapters 226 to 228, inclusive, to perform any act shall willfully refuse or neglect to perform the same, ~~he~~ the person shall, unless otherwise provided, be ~~fined not to exceed five hundred dollars, or be imprisoned in the county jail not to exceed three months, and pay the costs of prosecution, or be both fined and imprisoned at the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 248. Section two hundred thirty-five A point nine (235A.9), subsection one (1), Code 1975, is amended to read as follows:

1. Any person, official, agency or institution, required by this chapter to report a suspected case of child abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars or be imprisoned in the county jail not more than ten days~~.

Sec. 249. Section two hundred thirty-five A point twenty-one (235A.21), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who willfully requests, obtains, or seeks to obtain child abuse information under false pretenses, or who willfully communicates or seeks to communicate child abuse information to any agency or person except in accordance with sections 235A.15 and 235A.17, or any person connected with any research authorized pursuant to section 235A.15 who willfully falsifies child abuse information or any records relating thereto, is guilty of a ~~criminal offense and upon conviction for each such offense be punished by a fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than two years, or by both such fine and imprisonment~~ serious misdemeanor. Any person

who knowingly, but without criminal purposes, communicates or seeks to communicate child abuse information except in accordance with sections 235A.15 and 235A.17 shall ~~for each such offense be fined not more than one hundred dollars or be imprisoned not more than ten days~~ be guilty of a simple misdemeanor.

Sec. 250. Section two hundred thirty-six point thirty-four (236.34), Code 1975, is amended to read as follows:

236.34 PENALTY. Every person who violates any of the provisions of this chapter or who shall intentionally make any false statements or reports to the state commissioner with reference to the matters contained herein, shall be guilty of a ~~misdemeanor and upon conviction shall be fined not to exceed three hundred dollars or imprisoned for a term not to exceed one year~~ fraudulent practice.

Sec. 251. Section two hundred thirty-eight point forty-five (238.45), Code 1975, is amended to read as follows:

238.45 PENALTY. Every person who violates any of the provisions of this chapter or who intentionally shall make any false statements or reports to the state director with reference to the matters contained herein, shall be guilty of a ~~misdemeanor and upon conviction shall be punished accordingly~~ fraudulent practice.

Sec. 252. Section two hundred thirty-nine point fourteen (239.14), Code 1975, is amended to read as follows:

239.14 FRAUDULENT ACTS. Whoever obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, or by impersonation, or any fraudulent device, any assistance under this chapter to which the recipient is not entitled, shall be guilty of a ~~misdemeanor, and, upon conviction thereof, shall be punishable by fine, not exceeding five hundred dollars or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment~~ fraudulent practice.

Sec. 253. Chapter two hundred forty-five (245), Code 1975, is amended by adding the following new section:

NEW SECTION. FEDERAL PRISONERS. Convicts sentenced for any term by any court of the United States may be received by the superintendent into the women's reformatory and there kept in pursuance of their sentences. Convicts at the women's reformatory may also be transferred to the federal bureau of prisons.

Sec. 254. Section two hundred forty-five point eleven (245.11), Code 1975, is amended to read as follows:

245.11 EFFECT OF TRANSFER. After a transfer to either institution is made, under section 245.10, the person transferred shall be subject to all the provisions of law and regulations of the institution to which she is transferred, and for the purposes of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act, a person transferred from the training school for girls to the women's reformatory shall be regarded as having been committed thereto.

Sec. 255. Section two hundred forty-six point eleven (246.11), Code 1975, is amended to read as follows:

246.11 FEDERAL PRISONERS. Convicts sentenced for any term ~~at hard labor~~ by any court of the United States may be received by the warden into the penitentiary or the men's reformatory and there kept in pursuance of their sentences. Convicts at either the penitentiary or men's reformatory may also be transferred to the federal bureau of prisons.

Sec. 256. Section two hundred forty-nine point eleven (249.11), Code 1975, is amended to read as follows:

249.11 FRAUD. Any person who obtains assistance under this chapter by misrepresentation or by failure with fraudulent intent to bring forth all of the facts required of an applicant for assistance under this chapter, or any person who shall knowingly make false statements concerning an applicant's eligibility for assistance under this chapter, is guilty of a simple misdemeanor.

Sec. 257. Section two hundred fifty point ten (250.10), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be unlawful for any person, body, association,

firm, corporation or any other agency to solicit, disclose, receive, make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists, names or other information obtained from the reports above provided for, for commercial or political purposes, and a violation of this provision shall constitute a serious misdemeanor ~~punishable by a fine of not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment~~.

Sec. 258. Section two hundred sixty-two point sixty-eight (262.68), Code 1975, is amended to read as follows:

262.68 SPEED LIMIT ON INSTITUTIONAL GROUNDS. The maximum speed limit of all vehicles on institutional roads at institutions under the control of the state board of regents shall be forty-five miles per hour. All driving shall be confined to driveways designated by the state board. Whenever the state board shall determine that the speed limit hereinbefore set forth is greater than is reasonable or safe under the conditions found to exist at any place of congestion or upon any part of its institutional roads, said board shall determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at such places of congestion or other parts of its institutional roads. Any person violating the aforementioned speed limits shall~~, upon conviction,~~ be ~~fined not to exceed one hundred dollars, or be imprisoned in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 259. Section two hundred sixty-four point six (264.6), Code 1975, is amended to read as follows:

264.6 PENALTY. The members of the board of trustees and the officers of an institution of higher learning who do not file, in accordance with the provisions of this chapter, the record of grades in the office of the registrar of the state university within twelve months after the said institution has been closed or has ceased to function as an educational institution, ~~may~~ shall be ~~fined an amount not to exceed five~~

~~hundred-dollars~~ guilty of a simple misdemeanor.

Sec. 260. Section two hundred eighty-five point fourteen (285.14), Code 1975, is amended to read as follows:

285.14 NONSTANDARD BUSES--PENALTIES. Any person who operates or permits to be operated as a school bus to transport pupils, any vehicle which does not comply with the requirements provided by law or by the rules and regulations of the state department of public instruction, or for which there is not a valid temporary certificate for operation, shall be ~~punished-by-a-fine-of-not-to-exceed-one-hundred-dollars-or-by-imprisonment-in-the-county-jail-not-to-exceed thirty-days~~ guilty of a simple misdemeanor.

Sec. 261. Section two hundred eighty-five point fifteen (285.15), Code 1975, is amended to read as follows:

285.15 FORFEITURE OF REIMBURSEMENT RIGHTS. The failure of any local district to comply with the provisions of this chapter or any other laws relating to the transportation of pupils, or any rules made by the state department of public instruction under this chapter or the final decisions of the area education agency board, or the final decisions of the state department of public instruction shall during the period such failure to comply existed forfeit the rights to collect transportation costs from school or parents while operating in such illegal manner. Any superintendent, board, or board member who knowingly operates or permits to be operated any school bus transporting public school pupils in violation of any school transportation law shall be deemed guilty of a simple misdemeanor.

Sec. 262. Section two hundred eighty-nine point six (289.6), Code 1975, is amended to read as follows:

289.6 VIOLATIONS. When such part-time school shall have been established, any parent or person in charge of such minor as defined in this chapter who shall violate the provisions of this chapter, shall be ~~punished-by-a-fine-of-not-less-than ten-dollars-nor-more-than-fifty-dollars~~ guilty of a simple misdemeanor, or any person unlawfully employing any such minor shall be ~~punished-by-a-fine-of-not-less-than-twenty-dollars~~

~~nor-more-than-one-hundred-dollars,-or-be-imprisoned-in-the county-jail-not-to-exceed-thirty-days~~ guilty of a simple misdemeanor.

Sec. 263. Section two hundred ninety-seven point fourteen (297.14), Code 1975, is amended to read as follows:

297.14 BARBED WIRE. No fence provided for in section 297.13 shall be constructed of barbed wire, nor shall any barbed wire fence be placed within ten feet of any school grounds. Any person violating the provisions of this section shall be ~~punished-by-a-fine-not-exceeding-twenty-five dollars~~ guilty of a simple misdemeanor.

Sec. 264. Section two hundred ninety-nine point six (299.6), Code 1975, is amended to read as follows:

299.6 VIOLATIONS. Any person who shall violate any of the provisions of sections 299.1 to 299.5, inclusive, shall be ~~fined-not-less-than-five-dollars-nor-more-than-twenty dollars-for-each-offense~~ guilty of a simple misdemeanor.

Sec. 265. Section three hundred one point twenty-eight (301.28), Code 1975, is amended to read as follows:

301.28 OFFICERS AND TEACHERS AS AGENTS FOR BOOKS AND SUPPLIES. It shall be unlawful for any school director, officer, area education director or teacher to act as agent for any school textbooks or school supplies during such term of office or employment, and any school director, officer, area education director or teacher, who shall act as agent or dealer in school textbooks or school supplies, during the term of such office or employment, shall be deemed guilty of a serious misdemeanor~~,-and-shall,-upon-conviction-thereof, be-fined-not-less-than-ten-dollars-nor-more-than-one-hundred dollars,-and-pay-the-costs-of-prosecution~~.

Sec. 266. Section three hundred six B point six (306B.6), Code 1975, is amended to read as follows:

306B.6 MISDEMEANOR. Whoever erects or maintains an advertising device in violation of this chapter or in violation of rules and regulations promulgated by the department under this chapter shall be guilty of a simple misdemeanor ~~and-upon conviction-be-fined-not-less-than-twenty-five-dollars-nor~~

~~more-than-one-hundred-dollars~~.

Sec. 267. Section three hundred nine point sixty-six (309.66), Code 1975, is amended to read as follows:

309.66 USE OF GRAVEL BEDS. The board of supervisors may permit private parties or municipal corporations to take materials from such acquired lands in order to improve any street or highway in the county, but it shall be a serious misdemeanor for any person to use or for the board of supervisors to dispose of any such material for any purpose other than for the improvement of such streets or highways.

Sec. 268. Section three hundred thirteen A point thirty-seven (313A.37), Code 1975, is amended to read as follows:

313A.37 FAILURE TO PAY TOLL--PENALTY. Any person who uses any toll bridge and fails or refuses to pay the toll provided therefor shall be ~~punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both~~ guilty of a simple misdemeanor.

Sec. 269. Section three hundred seventeen point twenty-four (317.24), Code 1975, is amended to read as follows:

317.24 PUNISHMENT OF OFFICER. Any officer referred to in this chapter who neglects or fails to perform the duties incumbent upon ~~him~~ the officer under the provisions of this chapter shall be ~~punished by a fine not exceeding one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 270. Section three hundred twenty point eight (320.8), Code 1975, is amended to read as follows:

320.8 PENALTY. Failure to comply with any of the conditions of said grant, whether made such by statute or by agreement, or the laying of any such mains, or the constructing of any such cattleways, without having secured the grant of permission as provided by law shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars~~ deemed a simple misdemeanor. It shall be the duty of the state department of transportation and of the board of supervisors, as regards the highways under their respective jurisdictions, to enforce the provisions of this section and the laws relating thereto.

Sec. 271. Section three hundred twenty-one point one (321.1), subsection forty-five (45), Code 1975, is amended to read as follows:

45. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations in addition to its meaning in ~~section 748.3~~ chapter two (2), section one hundred four (104), subsection seven (7) of this Act.

Sec. 272. Section three hundred twenty-one point seventy-eight (321.78), Code 1975, is amended to read as follows:

321.78 INJURING OR TAMPERING WITH VEHICLE. Any person who either individually or in association with one or more other persons willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 273. Section three hundred twenty-one point seventy-nine (321.79), Code 1975, is amended to read as follows:

321.79 INTENT TO INJURE. Any person who with intent to commit any malicious mischief, injury, or other crime climbs into or upon a vehicle whether it is in motion or at rest or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle while the same is at rest and unattended is guilty of a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 274. Section three hundred twenty-one point ninety-one (321.91), subsection two (2), Code 1975, is amended to read as follows:

2. Any person who abandons a motor vehicle shall be guilty of a simple misdemeanor.

Sec. 275. Section three hundred twenty-one point ninety-seven (321.97), Code 1975, is amended to read as follows:

321.97 FRAUDULENT APPLICATIONS. Any person who fraudulently uses a false or fictitious name in any application for the registration of, or certificate of title to, a ve-

hicle or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a ~~fraud in any such application, shall upon conviction be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year or both~~ fraudulent practice.

Sec. 276. Section three hundred twenty-one point ninety-eight (321.98), Code 1975, is amended to read as follows:

321.98 OPERATION WITHOUT REGISTRATION. No person shall operate, nor shall an owner knowingly permit to be operated upon any highway any vehicle required to be registered and titled hereunder unless there shall be attached thereto and displayed thereon when and as required by this chapter a valid registration card and registration plate or plates issued therefor for the current registration year and unless a certificate of title has been issued for such vehicle except as otherwise expressly permitted in this chapter. Any violation of this section is a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 277. Section three hundred twenty-one point ninety-nine (321.99), Code 1975, is amended to read as follows:

321.99 IMPROPER USE OF REGISTRATION. No person shall lend to another any registration card, registration plate, special plate, or permit issued to him or her if the person desiring to borrow the same would not be entitled to the use thereof, nor shall any person knowingly permit the use of any of the same by one not entitled thereto, nor shall any person display upon a vehicle any registration card, registration plate or permit not issued for such vehicle or not otherwise lawfully used thereon under this chapter. Any violation of this section is a simple misdemeanor ~~punishable as provided in section 321.482~~.

Sec. 278. Section three hundred twenty-one point one hundred (321.100), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

It is a ~~felony, punishable as provided in section 321.483,~~ fraudulent practice for any person to commit any of the following acts:

Sec. 279. Section three hundred twenty-one point two hundred sixteen (321.216), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

It is a simple misdemeanor~~, punishable as provided in section 321.482 unless another punishment is otherwise provided,~~ for any person:

Sec. 280. Section three hundred twenty-one point two hundred seventeen (321.217), Code 1975, is amended to read as follows:

321.217 PERJURY. Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter or thing required by the terms of this chapter to be sworn to or affirmed, is guilty of ~~perjury and upon conviction shall be punishable by fine or imprisonment as other persons committing perjury are punishable~~ a class "D" felony.

Sec. 281. Section three hundred twenty-one point two hundred eighteen (321.218), Code 1975, is amended to read as follows:

321.218 DRIVING WHILE LICENSE DENIED, SUSPENDED OR REVOKED. Any person whose operator's or chauffeur's license or driving privilege, has been denied, canceled, suspended or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while such license or privilege is denied, canceled, suspended, or revoked, is guilty of a simple misdemeanor ~~and upon conviction shall be punished by imprisonment for not less than two days or more than thirty days~~. The sentence imposed under this section shall not be suspended by the court, notwithstanding the provisions of section 789A.1 or any other provision of statute. The department, upon receiving the record of the conviction of any person under this section upon a charge of driving a motor vehicle while the license of such person was suspended or revoked, shall extend the period of suspension or revocation for an additional like period, and the department shall not issue a new license during such additional period.

Sec. 282. Section three hundred twenty-one point two

hundred seventy-seven (321.277), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Every person convicted of reckless driving shall be ~~punished upon a conviction by imprisonment for a period of not more than thirty days, or by fine of not less than twenty-five dollars, nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 283. Section three hundred twenty-one point two hundred seventy-eight (321.278), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who violates the provisions of this section shall be guilty of ~~drag racing and upon conviction shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ a simple misdemeanor.

Sec. 284. Section three hundred twenty-one point two hundred eighty-one (321.281), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Whoever operates a motor vehicle upon the public highways of this state while under the influence of an alcoholic beverage, a narcotic, hypnotic or other drug, or any combination of such substances shall, upon conviction or a plea of guilty, ~~be punished~~ be guilty of a serious misdemeanor for the first offense and shall be imprisoned in the county jail not less than two days ~~by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for a period of not to exceed one year, or by both such fine and imprisonment;~~ be guilty of an aggravated misdemeanor for the second offense and shall be imprisoned in the county jail not less than seven days ~~by a fine of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment in the penitentiary for a period of not to exceed one year, or by both such fine and imprisonment;~~ and be guilty of a class "D" felony for a third offense and each offense thereafter ~~by imprisonment in the penitentiary for any term of years not less than one or more than five, and the court may pronounce sentence for a lesser~~

~~period than the maximum, the provisions of the indeterminate sentence law to the contrary notwithstanding~~.

Sec. 285. Section three hundred twenty-one point two hundred eighty-one (321.281), unnumbered paragraph five (5), Code 1975, is amended to read as follows:

This section shall not apply to a person operating a motor vehicle while under the influence of a narcotic, hypnotic or other drug if such substances were prescribed for such person and have been taken under such prescription and in accordance with the directions of a ~~reputable doctor of medicine~~ medical practitioner as defined in section one hundred fifty-five point three (155.3), subsection eleven (11), of the Code, provided however there is no evidence of the consumption of alcohol and further provided said ~~doctor of medicine~~ medical practitioner has not directed such person to refrain from operating a motor vehicle.

Sec. 286. Section three hundred twenty-one point two hundred eighty-two (321.282), Code 1975, is amended to read as follows:

321.282 VIOLATIONS. If any person who has been convicted or pleaded guilty to driving or operating a motor vehicle upon the public highways of this state while in an intoxicated condition is found driving or operating any motor vehicle in violation of the provisions of sections 321.174 and 321.209 ~~he~~ the person shall, ~~without regard to any other punishment provided by law,~~ be ~~imprisoned in the county jail for a period of not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 287. Section three hundred twenty-one point two hundred eighty-three (321.283), subsection fourteen (14), Code 1975, is amended to read as follows:

14. PENALTY. Any person violating a restriction or a temporary driving permit issued under subsection 6 shall be guilty of a simple misdemeanor.

Sec. 288. Section three hundred twenty-one point four hundred seventy-six (321.476), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person who prevents or in any manner obstructs an of-

ficer attempting to carry out the provisions of this section is guilty of a simple misdemeanor ~~and shall be punished as provided in section 321.482~~.

Sec. 289. Section three hundred twenty-one point four hundred eighty-two (321.482), Code 1975, is amended to read as follows:

321.482 PENALTIES FOR MISDEMEANOR. It is a simple misdemeanor for any person to do any act forbidden or to fail to perform any act required by any of the provisions of this chapter unless any such violation is by this chapter or other law of this state declared to be a felony. Chapter 232 shall have no application in the prosecution of offenses committed in violation of this chapter which are ~~punishable by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days~~ simple misdemeanor.

~~Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.~~

Sec. 290. Section three hundred twenty-one point four hundred eighty-three (321.483), Code 1975, is amended to read as follows:

321.483 PENALTY FOR FELONY. Any person who is convicted of a violation of any of the provisions of this chapter herein declared to constitute a felony, and for which another punishment is not otherwise provided, shall be ~~punished by imprisonment for a term of not more than five years, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or by both such fine and imprisonment~~ guilty of a class "D" felony.

Sec. 291. Section three hundred twenty-one A point thirty-two (321A.32), Code 1975, is amended to read as follows:

321A.32 OTHER VIOLATIONS--PENALTIES.

1. Any person whose license or registration or nonresident's operating privilege has been suspended, denied or revoked under this chapter or continues to remain suspended

or revoked under this chapter, and who, during such suspension, denial or revocation, or during such continuing suspension or continuing revocation, drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this chapter, shall be ~~fined not more than five hundred dollars or imprisoned not exceeding six months, or both~~ guilty of a serious misdemeanor.

2. Any person willfully failing to return license or registration as required in section 321A.31 shall be ~~fined not more than five hundred dollars or imprisoned not to exceed thirty days, or both~~ guilty of a serious misdemeanor.

3. Any person who shall forge or, without authority, sign any notice provided for under section 321A.5 that a policy or bond is in effect, or any evidence of proof of financial responsibility, or who files or offers for filing any such notice or evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be ~~fined not more than one thousand dollars or imprisoned not more than one year, or both~~ guilty of a serious misdemeanor.

4. Any person who shall violate any provision of this chapter for which no penalty is otherwise provided shall be ~~fined not more than five hundred dollars or imprisoned not more than ninety days, or both~~ guilty of a serious misdemeanor.

Sec. 292. Section three hundred twenty-one B point seven (321B.7), Code 1975, is amended to read as follows:

321B.7 REFUSAL TO SUBMIT. If a person under arrest refuses to submit to the chemical testing, no test shall be given, but the director, upon the receipt of a sworn report of the peace officer that he or she had reasonable grounds to believe the arrested person to have been operating a motor vehicle upon a public highway of this state while under the influence of an alcoholic beverage, that he or she had placed such person under arrest for the offense of operating a motor vehicle while under the influence of an alcoholic beverage and that the person had refused to submit to the

chemical testing, shall revoke his or her license or permit to drive and any nonresident operating privilege for a period of not less than one hundred twenty days nor more than one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit within one year from the date of the alleged violation, subject to review as hereinafter provided. The effective date of any such revocation shall be twenty days after the director has mailed notice of such revocation to such person by registered or certified mail.

Sec. 293. Section three hundred twenty-one B point fifteen (321B.15), Code 1975, is amended to read as follows:

321B.15 DRIVING WHILE LICENSE DENIED OR REVOKED. Any person whose license, or driving privilege, has been denied or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while such license or privilege is denied or revoked, is guilty of a simple misdemeanor and upon conviction shall be punished as provided for simple misdemeanors in section 321.482. The department, upon receiving the record of the conviction of any person under this section upon a charge of driving a motor vehicle while the license of such person was revoked, shall extend the period of revocation for an additional like period, and the department shall not issue a new license during such additional period.

Sec. 294. Section three hundred twenty-one F point twelve (321F.12), Code 1975, is amended to read as follows:

321F.12 PENALTY. Any person violating any provision of this chapter shall be guilty of a simple misdemeanor.

Sec. 295. Section three hundred twenty-one G point fourteen (321G.14), Code 1975, is amended to read as follows:

321G.14 PENALTY. Any person who shall violate any provision of this chapter or any regulation of the commission or director of transportation shall be guilty of a simple misdemeanor ~~and punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days~~.

Chapter 232 shall have no application in the prosecution of offenses which are committed in violation of this chapter, and which ~~are punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days~~ constitute simple misdemeanors.

Sec. 296. Section three hundred twenty-two point fourteen (322.14), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person violating any of the provisions of this chapter where a penalty is not specifically provided for shall be deemed guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or thirty days in jail~~.

Sec. 297. Section three hundred twenty-three point nine (323.9), Code 1975, is amended to read as follows:

323.9 VIOLATIONS. Any person violating the provisions of this chapter is guilty of a simple misdemeanor ~~and shall be punished by a fine not to exceed one hundred dollars or imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 298. Section three hundred twenty-four point fourteen (324.14), Code 1975, is amended to read as follows:

324.14 PENALTY FOR OPERATING UNREGISTERED TRANSPORT. It shall be unlawful for any person to transport motor fuel in bulk upon the highways of this state in a conveyance the registration of which is required without the evidence of registration provided for and any person found guilty of the unlawful act shall be ~~fined not to exceed one hundred dollars or imprisoned in the county jail not more than thirty days~~ guilty of a simple misdemeanor, and each cargo so transported shall be considered a separate offense. This penalty shall be in addition to penalties imposed under other provisions of this chapter. Persons transporting motor fuel in bulk upon the highways of this state in an amount of not to exceed four thousand gallons shall not be regarded as transporting in bulk.

Sec. 299. Section three hundred twenty-four point twenty

(324.20), Code 1975, is amended to read as follows:

324.20 POSTING PRICE AND DISCOUNTS. Every distributor and other person selling motor fuel in this state for resale to dealers in this state, shall keep posted in a conspicuous place most accessible to the public at their place or places of business, including bulk plants, a placard showing in legible words and figures the same height and size, the price per gallon of each grade of motor fuel offered for sale, the amount of state excise tax per gallon thereon, the federal excise tax per gallon thereon, and the total thereof. If any rebate, discount, commission, or other concession is granted by distributors or persons engaged in the sale of motor fuel for resale to dealers of such nature as will reduce the cost or price to any purchaser or dealer in such products, the conditions, quantity, and amount of such rebate, discount, commission or other concession shall be posted as a part of the posted price. All price placards shall be subject to the approval of the department of revenue. Any distributor or person failing to post or keep posted the placard required by this section, or who posts placards not approved by the department of revenue as provided in this section, or who sells any motor fuel for resale at a price which directly or indirectly, by any means or device, deviates from the posted price set forth on the price placard approved by the department of revenue, shall be guilty of a simple misdemeanor ~~and shall be punished by a fine of one hundred dollars or imprisonment in the county jail for thirty days~~. Nothing contained herein shall prohibit or restrict the distribution of earnings to the members of any distributor or person, nor to the distribution to consumers of road maps, publicity and other advertising media carrying the name of the distributor, person, or produce. Each day the required placard remains unposted or an unauthorized placard remains posted, or each deviation from the posted price, shall be considered a separate offense. In the event of a second conviction for the violation of any of the provisions of this section, the department of revenue may revoke the license of such distributor or person

so convicted.

Sec. 300. Section three hundred twenty-four point fifty-two (324.52), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel in violation of the provisions of the preceding paragraph is guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars or shall be imprisoned in the county jail not more than thirty days~~.

Sec. 301. Section three hundred twenty-four point sixty-three (324.63), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person violating the provisions of this section, and disclosing the contents of any records or reports required to be kept or made under the provisions of this chapter, except as hereinabove provided, shall ~~upon conviction~~ be ~~fined not less than one hundred dollars nor more than one thousand dollars or be confined in the county jail not less than thirty days nor more than six months~~ guilty of a simple misdemeanor.

Sec. 302. Section three hundred twenty-four point seventy-three (324.73), Code 1975, is amended to read as follows:

324.73 EMBEZZLEMENT OF FUEL TAX MONEY--PENALTY. Every sale of motor fuel in this state and every sale of special fuel dispensed by the seller into a fuel supply tank of a motor vehicle shall, unless otherwise provided, be presumed to include as a part of the purchase price the fuel tax due the state of Iowa under the provisions of this chapter. Every person collecting fuel tax money as part of the selling price of motor fuel or special fuel, shall hold the tax money in trust for the state of Iowa unless the fuel tax on the fuel has been previously paid to the state of Iowa. Any person receiving fuel tax money in trust and failing to remit it to the department of revenue on or before time required shall be guilty of ~~embezzlement of public funds and upon conviction shall be subjected to the penalty provided by law for that~~

~~offense~~ theft.

Sec. 303. Section three hundred twenty-four point seventy-five (324.75), Code 1975, is amended to read as follows:

324.75 PENALTY FOR FALSE CERTIFICATE. Any person who makes a false certificate, false fuel invoice, false fuel receipt, or false fuel sales ticket in any report, return, application, claim, or evidence required or provided for by this chapter or under any rule or regulation made by the department of revenue shall be ~~punished by imprisonment in the penitentiary for not more than one year, or by imprisonment in the county jail for such term as the court may determine, not exceeding six months, or by a fine of not more than two thousand dollars, or by such combination of either imprisonment and fine as the court may determine~~ guilty of a fraudulent practice.

Sec. 304. Section three hundred twenty-five point thirty-four (325.34), Code 1975, is amended to read as follows:

325.34 MISDEMEANOR--PENALTY. Every owner, officer, agent, or employee of any motor carrier, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, or regulation, direction, demand, or requirement or any part or provision thereof, of the commission, or who procures, aids, or abets any corporation or person in his failure to obey, observe, or comply with any such order, decision, rule, direction, demand, or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 305. Section three hundred twenty-five point thirty-five (325.35), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be a simple misdemeanor~~, punishable by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days,~~ for any motor carrier to operate any motor vehicle for which the annual fee has not been paid and the board may revoke the certificate of convenience and necessity of any such violator.

Sec. 306. Section three hundred twenty-six point twenty-seven (326.27), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seventy-three (173), section nine (9) is amended to read as follows:

326.27 VIOLATIONS TO NEGATE AGREEMENTS. Operation of a commercial vehicle or vehicles in violation of the requirements of this chapter, the motor vehicle registration laws of this state, or the terms of any agreement negotiated by the department pursuant to this chapter may, after due notice and hearing, be grounds for denial of reciprocal or proportional registration privileges on the vehicle or vehicles of an owner so operated. Any owner denied such reciprocal or proportional registration privileges shall be subject to payment of full annual Iowa registration fees on any such vehicle operated on Iowa highways. In addition to denial of reciprocal or proportional registration privileges, it shall be a simple misdemeanor ~~punishable upon conviction by a fine of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days~~, unless such act is declared under Iowa law to be a felony, for any person to operate under reciprocity or proportional registration in violation of any requirements of this chapter.

Sec. 307. Section three hundred twenty-seven point nine (327.9), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

It shall be a simple misdemeanor for any truck operator or contract carrier to operate any motor truck for which the annual fee has not been paid and the board may revoke the truck operator or contract carrier permit of any such violator or both.

Sec. 308. Section three hundred twenty-seven point twenty-two (327.22), Code 1975, is amended to read as follows:

327.22 VIOLATIONS--PUNISHMENT. Every owner, officer,

agent, or employee of any truck operator, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, or regulation, direction, demand, or requirement or any part or provision thereof, of the commission, or the department, or who procures, aids, or abets any corporation or person in his or her failure to obey, observe, or comply with any such order, decision, rule, direction, demand, or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 309. Section three hundred twenty-seven A point eighteen (327A.18), Code 1975, is amended to read as follows:

327A.18 PENALTIES. Every owner, officer, agent or employee of any liquid transport carrier, and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule or regulation, direction, demand, or requirement or any part or provision thereof of the board, or who procures, aids or abets any corporation or person in his failure to obey, observe, or comply with any such order, decision, rule, direction, demand or regulation or any part or provision thereof, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days~~.

Sec. 310. Section three hundred twenty-eight point forty (328.40), Code 1975, is amended to read as follows:

328.40 PENALTIES. Any person who violates any of the provisions of this chapter, or who makes any material false statement or representation in any application or statement filed with the department as required by this chapter or any of the rules and regulations issued pursuant thereto shall

be guilty of a ~~misdemeanor, and upon conviction thereof shall be punished accordingly~~ fraudulent practice.

Sec. 311. Section three hundred twenty-eight point forty-one (328.41), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person who operates an aircraft in a careless or reckless manner in violation of the provisions of this section shall be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished accordingly~~.

Sec. 312. Section three hundred twenty-nine point fourteen (329.14), Code 1975, is amended to read as follows:

329.14 ENFORCEMENT AND REMEDIES. Each violation of this chapter or of any regulations, order, or rules promulgated pursuant to this chapter, shall constitute a simple misdemeanor~~, and the perpetrator thereof, upon conviction, shall be punished accordingly,~~ and each day a violation continues to exist shall constitute a separate offense.

Sec. 313. Section three hundred thirty-two point thirty (332.30), Code 1975, is amended to read as follows:

332.30 PENALTY. Any person who violates any of the provisions of sections 332.23 to 332.29 or who violates any of the terms or conditions under which ~~he~~ the person is permitted to engage in the business activity for which ~~he~~ the person was licensed, shall be ~~fined a sum not to exceed twenty-five dollars~~ guilty of a simple misdemeanor.

Sec. 314. Section three hundred thirty-six A point seven (336A.7), Code 1975, is amended to read as follows:

336A.7 OTHER ATTORNEY APPOINTED. The court may, for cause, upon the application of the indigent person or the public defender, or on its own motion, appoint an attorney other than the public defender, to represent the indigent person at any state of the proceedings or on appeal. The attorney so appointed shall be compensated as provided in ~~section 775.5~~ chapter two (2), section one thousand five hundred seven (1507) of this Act.

Sec. 315. Section three hundred thirty-six B point two (336B.2), Code 1975, is amended to read as follows:

336B.2 FINANCIAL STATEMENT. Before an attorney is appointed under the provisions of sections 68.8, 145.17, 145.19, 222.22, 232.28, ~~775.4~~ or ~~777.12~~ rule eight (8), rules of criminal procedure, or to represent any person charged with a crime in this state, the court shall require the client, or his parent, guardian, or custodian to complete under oath a detailed financial statement.

Sec. 316. Section three hundred thirty-six B point five (336B.5), Code 1975, is amended to read as follows:

336B.5 FALSE STATEMENT--PENALTY. Any person that submits to a court or to a public defender a materially false financial statement, for the purpose of obtaining legal assistance at public expense, shall be guilty of a ~~misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days~~ fraudulent practice.

Sec. 317. Section three hundred thirty-nine point five (339.5), Code 1975, is amended to read as follows:

339.5 REPORTS BY OTHERS. Every person who knows of the existence of a body where death occurred in the manner specified in section 339.6, shall notify the county or state medical examiner or the city or state law enforcement agency or county sheriff thereof as soon as possible, unless such person shall have good reason to believe that such notice has already been given. Any person who shall fail to give such notice to a medical examiner shall be guilty of a ~~public offense, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or a sentence in the county jail of not more than six months, or by both such fine and imprisonment~~ serious misdemeanor.

Sec. 318. Section three hundred thirty-nine point thirteen (339.13), unnumbered paragraph four (4), Code 1975, is amended to read as follows:

Any person violating any of the provisions of this section shall be deemed guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be fined not more than one thousand dollars or imprisoned in the county jail not more than one year, or by both such fine and imprisonment~~.

Sec. 319. Section three hundred forty-one A point twenty-one (341A.21), Code 1975, is amended to read as follows:

341A.21 INDICTABLE MISDEMEANOR. Any person who willfully violates any of the provisions of this chapter shall be guilty of a simple misdemeanor~~, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not longer than thirty days or punished by both such fine and imprisonment~~. The district court shall have jurisdiction of all such offenses.

Sec. 320. Section three hundred forty-three point nine (343.9), Code 1975, is amended to read as follows:

343.9 VIOLATIONS. Any officer of any county, or any deputy or employee of such officer, who violates any of the provisions of sections 343.7 and 343.8, shall be guilty of a simple misdemeanor~~, and fined not less than one hundred dollars, nor more than five hundred dollars, for each offense~~.

Sec. 321. Section three hundred forty-four point ten (344.10), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any county official in charge of any department or office who violates this law shall be guilty of a simple misdemeanor ~~and punished accordingly~~.

Sec. 322. Section three hundred forty-six point twenty-two (346.22), Code 1975, is amended to read as follows:

346.22 VIOLATIONS. Any officer of any county, or any deputy or employee of such officer, who violates any of the provisions of sections 346.20 and 346.21, shall be guilty of a simple misdemeanor~~, and fined not less than one hundred dollars, nor more than five hundred dollars, for each offense~~.

Sec. 323. Section three hundred fifty point seven (350.7), Code 1975, is amended to read as follows:

350.7 FALSE CLAIM. Any person who shall claim or attempt to procure any bounty provided for in this chapter upon any animal killed in another state or county, or upon any animal which has been domesticated, or who shall attempt to obtain

any bounty by presenting any false claim or spurious exhibit, shall be ~~fined not more than one hundred dollars nor less than fifty dollars for each offense~~ guilty of a fraudulent practice.

Sec. 324. Section three hundred fifty-one point forty-three (351.43), Code 1975, is amended to read as follows:

351.43 PENALTY. Any person refusing to comply with the provisions of sections 351.33 to 351.42 or violating any of their provisions, shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be fined not more than one hundred dollars or imprisoned not more than thirty days, for each offense~~.

Sec. 325. Section three hundred fifty-one A point six (351A.6), Code 1975, is amended to read as follows:

351A.6 PENALTY. It shall be a simple misdemeanor for any person or corporation to violate any provision of this chapter. ~~Every person convicted hereunder shall be punished by imprisonment for a period not more than thirty days, or by a fine not to exceed one hundred dollars.~~ Any pound failing or refusing to comply with the provisions of this chapter shall become immediately ineligible for any public moneys notwithstanding the provisions of any contract, and it shall be unlawful for any public body to pay any public moneys to a pound after receipt by it of a notice of such noncompliance or refusal from any institution authorized by the state department of health to obtain dogs until such time as such institution shall have withdrawn its notice or the state department of health shall have notified such public body that such notice was without foundation.

Sec. 326. Section three hundred fifty-six point seven (356.7), Code 1975, is amended to read as follows:

356.7 CALENDAR RETURNED. On or before the fifteenth day of the months of January, April, July and October each year, the sheriff of each county must return a copy of such calendar to the district court of the district within which his county is situated. If a sheriff neglects or refuses to do so, he or she shall be ~~punished by a fine not exceeding one hundred~~

~~dollars~~ guilty of a simple misdemeanor.

Sec. 327. Section three hundred fifty-six point twenty-three (356.23), Code 1975, is amended to read as follows:

356.23 CRUEL TREATMENT. If any officer or other person treat any prisoner in a cruel or inhuman manner, he or she shall be ~~punished by fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding twelve months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 328. Section three hundred fifty-six point twenty-five (356.25), Code 1975, is amended to read as follows:

356.25 ANNOYANCE OF PRISONER. Any person persisting in insulting or annoying or communicating with any prisoner, after being commanded by such officer to desist, shall be ~~punished by a fine not exceeding ten dollars, or by imprisonment not exceeding three days~~ guilty of a simple misdemeanor.

Sec. 329. Section three hundred fifty-six A point three (356A.3), Code 1975, is amended to read as follows:

356A.3 ALTERNATIVE CONFINEMENT OF PRISONERS. Any municipal or district court judge may sentence and commit a person to a facility established and maintained pursuant to section 356A.1 or 356A.2 instead of the county jail. A district court judge may order the transfer of a person sentenced and committed to the county jail to such a facility upon his or her own motion, the motion of the sentenced and committed person, or the motion of the sheriff. The original order of commitment or the order of transfer to the facility shall set forth the terms and conditions of the dentention or commitment; that the detained or committed person shall abide by the terms and conditions of this chapter and the rules and regulations of the facility to which committed or transferred. The order shall be read to the detained, committed or transferred person in open court. The committing court or a district court judge may order any person who has been detained, committed, or transferred to such a facility to be transferred to the county jail if, upon hearing, the

court determines such person has been refractory, disorderly, has willfully destroyed or injured any property in the facility, or has violated any of the terms and conditions of the order of detention, commitment, or transfer or the provisions of this chapter or the rules and regulations of the facility wherein ~~he~~ the person was detained or committed. Any violations of the order of detention, commitment, or transfer shall further be punished as contempt of court pursuant to chapter 665. The provisions of chapter ~~745~~ one (1), section one thousand nine hundred four (1904) of this Act shall be applicable to any person detained, committed, or transferred to a facility established and maintained pursuant to this chapter. The county or city to which the cause originally belonged shall be liable for the expense of the original detention, commitment, or transfer and the subsequent expenses of maintaining such person in the facility. The county's expense shall be levied and paid out of the court expense fund pursuant to section 444.10.

Sec. 330. Section three hundred fifty-eight A point twenty-six (358A.26), Code 1975, is amended to read as follows:

358A.26 PENALTY. In addition to any other remedy granted herein, the violation on any regulation, restriction or boundary adopted under this chapter or the occupancy or use of any structure erected, altered or maintained in violation of this chapter shall constitute a simple misdemeanor. Such occupancy or use shall be deemed a continuing violation and may be the subject to repeated prosecutions if so continued. ~~Every person convicted of a misdemeanor, by reason of violations hereinabove set forth, shall be punished by a fine of not more than one hundred dollars or by imprisonment of not more than thirty days.~~

Sec. 331. Section three hundred sixty-four point five (364.5), unnumbered paragraph one (1), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred three (203), section thirteen (13) is amended to read as follows:

364.5 JOINT ACTION--LEAGUE OF MUNICIPALITIES. It is

unlawful for the league of Iowa municipalities to provide any form of aid to a political party or to the campaign of a candidate for political or public office. Any person violating or being an accessory to a violation of this section is guilty of a simple misdemeanor.

Sec. 332. Section four hundred point thirty (400.30), Code 1975, is amended to read as follows:

400.30 PENALTY. The provisions of this chapter shall be strictly carried out by each person or body having powers or duties thereunder, and any act or failure to act tending to avoid or defeat the purposes of such provisions is hereby prohibited and shall be ~~punishable as~~ a simple misdemeanor.

Sec. 333. Section four hundred nine point fourteen (409.14), unnumbered paragraph seven (7), Code 1975, is amended to read as follows:

If any such plat of land is tendered for recording in the office of the county recorder or county auditor of any county in which any city of the above class may be situated, it shall be the duty of such county recorder and auditor to examine such plat, to ascertain whether the endorsement of approval by the city council, as herein provided for, shall appear thereon. If it shall, and the plat otherwise conforms to the provisions of law, said officers shall accept same for recording. If such endorsement does not appear thereon said officers shall refuse and decline to accept such plat, and any filing thereof shall be void. Any failure to observe the provisions of this section on the part of any county recorder or county auditor shall constitute a simple misdemeanor in office.

Sec. 334. Section four hundred eleven point fourteen (411.14), Code 1975, is amended to read as follows:

411.14 PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of such retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a ~~misdemeanor, and shall be punishable therefor under the laws of this state~~ fraudu-

lent practice. Should any change or errors in records result in any member or beneficiary receiving from the retirement system more or less than he or she would have been entitled to receive had the records been correct, the respective board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled, shall be paid.

Sec. 335. Section four hundred thirteen point one hundred seven (413.107), Code 1975, is amended to read as follows:

413.107 VIOLATIONS. Every person who shall violate or assist in the violation of any provision of this chapter shall be guilty of a simple misdemeanor ~~punishable by a fine of not less than ten dollars or more than one hundred dollars, and in default in payment thereof, by imprisonment in the county jail for not more than thirty days~~.

Sec. 336. Section four hundred thirteen point one hundred eleven (413.111), Code 1975, is amended to read as follows:

413.111 LIEN ON PROPERTY. The existence of a nuisance in or upon such dwelling, structure on the same lot with a dwelling, or on such lot, which the owner thereof has created or permitted to exist and any violation of this chapter as to such dwelling, structure, and lot of which the owner has been guilty shall in such proceeding subject such dwelling, structure, and lot respectively to a penalty of fifty dollars, which shall be a lien thereon until paid; and any violation of an order made or a notice given by the health officer, permitted or committed by the owner of a dwelling, structure on the same lot with a dwelling, or such lot, shall ~~in such proceeding subject the dwelling, structure, and lot respectively to a penalty of fifty dollars, which penalty shall be a lien thereon until paid~~ constitute a simple misdemeanor.

Sec. 337. Section four hundred twenty-two point twenty (422.20), Code 1975, is amended to read as follows:

422.20 INFORMATION CONFIDENTIAL--PENALTY. It shall be unlawful for any officer or employee of the state of Iowa to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any person committing an offense against the foregoing provision shall, ~~upon conviction for each such offense, be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine of not more than one thousand dollars, or both~~ be guilty of a serious misdemeanor; and if the offender be an officer or employee of the state of Iowa he or she shall also be dismissed from office or discharged from employment. Nothing herein shall prohibit turning over to duly authorized officers of the United States information and income returns pursuant to agreement between the director and the secretary of the treasury of the United States or ~~his~~ the secretary's delegate.

Sec. 338. Section four hundred twenty-two point twenty-five (422.25), subsections five (5) and eight (8), Code 1975, are amended to read as follows:

5. Any person required to supply any information, to pay any tax, or to make, sign, or file any return or supplemental return, who willfully makes any false or fraudulent return, or willfully fails to pay such tax, supply such information, or make, sign, or file such return, at the time or times required by law, shall ~~upon conviction for each such offense be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding twenty-five hundred dollars, or both such fine and imprisonment~~ be guilty of a fraudulent practice.

8. Any person who willfully attempts in any manner to defeat or evade any tax imposed by this division or the payment thereof, shall upon conviction for each such offense

be ~~punished by imprisonment in the county jail for a term not exceeding one year or in the state penitentiary for a term not exceeding five years or by a fine not exceeding five thousand dollars, or both such fine and imprisonment~~ guilty of a class "D" felony.

Sec. 339. Section four hundred twenty-two point forty (422.40), subsection four (4), Code 1975, is amended to read as follows:

4. Any person, or any officer or employee of any corporation, or member or employee of any partnership, who, with intent to evade any requirement of this division or any lawful requirement of the director thereunder, shall fail to pay any tax or to make, sign, or verify any return or to supply any information required by or under the provisions of this division, shall be guilty of a serious misdemeanor ~~and punished accordingly~~. Any person, corporation, or any officer or employee of a corporation, or member or employee of any partnership, who, with intent to evade any of the requirements of this division, or any lawful requirements of the director thereunder, shall make, render, sign, or verify any false or fraudulent return or statement, or shall supply any false or fraudulent information, or who shall aid, abet, direct, cause, or who shall procure anyone so to do, shall be ~~liable to a penalty of not more than five thousand dollars, to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction, and shall also upon conviction be punished by imprisonment in the penitentiary for a term not exceeding one year, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or both~~ guilty of a fraudulent practice. Such penalty shall be in addition to all other penalties in this division provided.

Sec. 340. Section four hundred twenty-two point forty-two (422.42), subsection sixteen (16), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Every operator of a vending machine or amusement device equipment, the receipts from the operation of which are taxable

under section 422.43, shall by means of a sticker identify each such machine operated by him or her to show the valid sales tax permit number issued to him or her under which the sales tax concerning the operation of each given machine is being reported and remitted to the department. The stickers shall be provided by the department and it shall be the duty of each operator to place and maintain same in a place easily seen by the user on each machine operated by him or her. Failure to so identify such machines shall be ~~unlawful and~~ a simple misdemeanor.

Sec. 341. Section four hundred twenty-two point forty-five (422.45), subsection seven (7), paragraph c, Code 1975, is amended to read as follows:

c. Any contractor who shall willfully make false report of tax paid under the provisions of this subsection shall be guilty of a simple misdemeanor and in addition thereto shall be liable for the payment of the tax with penalty and interest thereon.

Sec. 342. Section four hundred twenty-two point fifty-eight (422.58), subsections two (2) and three (3), Code 1975, are amended to read as follows:

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage in the rendering, furnishing, or performing services enumerated in section 422.43, in this state after ~~his~~ the person's license shall have been revoked, or without procuring a license within sixty days after the effective date of this division, as provided in section 422.53, or who shall violate the provisions of section 422.49, and the officers of any corporation who shall so act, shall be guilty of a simple misdemeanor, ~~punishment for which shall be a fine of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days in the discretion of the court~~.

3. Any person required to make, render, sign, or certify any return or supplementary return, who makes any false or

fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a class "D" felony ~~and shall, for each such offense, be fined not less than five hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both such fine and imprisonment, in the discretion of the court~~.

Sec. 343. Section four hundred twenty-two point seventy-two (422.72), subsection two (2), Code 1975, is amended to read as follows:

2. Any person violating the provisions of subsection 1 of this section shall be guilty of a serious misdemeanor ~~and punishable by a fine not to exceed one thousand dollars~~.

Sec. 344. Section four hundred twenty-three point eleven (423.11), Code 1975, is amended to read as follows:

423.11 ABSORBING TAX PROHIBITED. It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this chapter will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. The director shall have the power to adopt and promulgate rules for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax. Any person violating any of the provisions of this section within this state shall be guilty of a simple misdemeanor ~~and subject to the penalties provided in section 423.20~~.

Sec. 345. Section four hundred twenty-three point nineteen (423.19), Code 1975, is amended to read as follows:

423.19 FRAUD. Any person required to make, render, sign, or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the tax, or amount required to be paid by this chapter, shall

be guilty of a ~~felony and shall, for each such offense, be fined not less than five hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both such fine and imprisonment, in the discretion of the court~~ fraudulent practice.

Sec. 346. Section four hundred twenty-three point twenty (423.20), Code 1975, is amended to read as follows:

423.20 PENALTY. Any retailer or other person failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return or other data required by the director, shall be guilty of a simple misdemeanor ~~and subject to a fine of not to exceed one hundred dollars for each such offense, or to imprisonment for not to exceed thirty days, or to both such fine and imprisonment, in the discretion of the court~~.

Sec. 347. Section four hundred twenty-three point twenty-six (423.26), Code 1975, is amended to read as follows:

423.26 PENALTY FOR FALSE STATEMENT. Any person who willfully makes any false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 is guilty of a simple misdemeanor.

Sec. 348. Section four hundred twenty-three A point four (423A.4), Code 1975, is amended to read as follows:

423A.4 PENALTY. A person who violates the provisions of this chapter shall upon conviction be ~~punished by imprisonment in the county jail for not more than one year or be fined not more than ten thousand dollars or punished by both such imprisonment and fine~~ guilty of an aggravated misdemeanor.

Sec. 349. Section four hundred twenty-four point thirteen (424.13), subsection two (2), Code 1975, is amended to read as follows:

2. Any person required to make, render, sign, or verify any return or supplementary return, who makes any false or fraudulent return with the intent to defeat or evade the assessment required by law to be made, shall be guilty of a ~~felony and shall, for each such offense, be fined not less than five hundred dollars, nor not more than five thousand~~

~~dollars,-or-be-imprisoned-not-exceeding-one-year,-or-be-subject-to-both-fine-and-imprisonment,-in-the-discretion-of-the-court~~ fraudulent practice.

Sec. 350. Section four hundred twenty-five point thirteen (425.13), Code 1975, is amended to read as follows:

425.13 CONSPIRACY TO DEFRAUD. If any two or more persons conspire and confederate together with fraudulent intent to obtain the credit provided for under the terms of this chapter by making a false deed, or a false contract of purchase, they are guilty of a ~~conspiracy-and-every-person-who-is-convicted-of-such-a-conspiracy-shall-be-imprisoned-in-the-county-jail-for-a-period-not-to-exceed-one-year,-or-shall-be-fined-in-a-sum-not-to-exceed-one-thousand-dollars,-or-shall-be-imprisoned-in-the-penitentiary-not-more-than-three-years~~ fraudulent practice.

Sec. 351. Section four hundred twenty-five point fourteen (425.14), Code 1975, is amended to read as follows:

425.14 FALSE AFFIDAVITS. Any person making a false claim or affidavit for the purpose of securing a homestead tax credit, or for the purpose of aiding another to secure such homestead tax credit, shall be guilty of a ~~misdemeanor-and,-upon-conviction,-shall-be-punished-by-a-fine-of-not-more-than-one-hundred-dollars,-or-by-imprisonment-in-the-county-jail-not-more-than-thirty-days,-or-by-both-such-fine-and-imprisonment~~ fraudulent practice.

Sec. 352. Section four hundred twenty-five point twenty-nine (425.29), Code 1975, is amended to read as follows:

425.29 FALSE CLAIM--PENALTY. Any person making a false affidavit for the purpose of obtaining reimbursement provided for in this division or who knowingly receives the reimbursement without being legally entitled to it or makes claim for the reimbursement in more than one county in the state shall be guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-fined-not-more-than-one-hundred-dollars-or-imprisoned-in-the-county-jail-for-not-more-than-thirty-days-or-be-subject-to-both-such-fine-and-imprisonment~~. An action under this section shall be brought in the county in which

the affidavit was filed. The claim for reimbursement shall be disallowed in full and if the claim has been paid the amount may be recovered by assessment in the manner that income taxes are assessed pursuant to sections 422.26 and 422.30. The director of revenue shall send a notice of disallowance of the claim.

Sec. 353. Section four hundred twenty-seven point seven (427.7), Code 1975, is amended to read as follows:

427.7 PENALTY. Any person making a false affidavit for the purpose of obtaining the exemption provided for in sections 427.3 to 427.6 or who knowingly receives such exemption without being legally entitled thereto, or who makes claim for exemption in more than one county in the state shall be guilty of a ~~misdemeanor-and-upon-conviction-thereof-fined-not-more-than-one-hundred-dollars-or-imprisoned-in-the-county-jail-for-not-more-than-thirty-days-or-be-both-so-fined-and-imprisoned~~ fraudulent practice.

Sec. 354. Section four hundred twenty-seven point sixteen (427.16), subsection seven (7), Code 1975, is amended to read as follows:

7. PENALTY. If any person willfully makes or causes to be made any statement to the officer charged with assessment or valuation of property for tax purposes in his or her taxing district containing a false statement of a material fact, be ~~he~~ the person owner, shipper, storageman, or warehouseman, ~~he~~ the person shall be guilty of a ~~misdemeanor-and-upon-conviction-shall-be-punished-by-a-fine-of-not-less-than-one-hundred-dollars-or-more-than-five-hundred-dollars-or-by-imprisonment-in-the-county-jail-for-not-less-than-thirty-days-or-more-than-one-hundred-fifty-days~~ fraudulent practice.

Sec. 355. Section four hundred twenty-seven A point four (427A.4), unnumbered paragraph five (5), Code 1975, is amended to read as follows:

Any person making a false affidavit for the purpose of obtaining the credit provided for in this section, or who knowingly receives such credit without being legally entitled thereto, or who makes claim for credit of more than ten thou-

sand dollars in the state shall be guilty of a ~~misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars or imprisoned in the county jail for not more than thirty days or be both so fined and imprissioned~~ fraudulent practice.

Sec. 356. Section four hundred twenty-eight A point ten (428A.10), Code 1975, is amended to read as follows:

428A.10 PENALTY. Any person, firm or corporation liable for the tax imposed by this chapter who knowingly fails to comply with the provisions of sections 428A.5 and 428A.6 relating to the attachment or cancellation of documentary stamps, shall be ~~subject to a fine of not less than one hundred dollars nor more than five hundred dollars~~ guilty of a simple misdemeanor.

Sec. 357. Section four hundred forty-one point nineteen (441.19), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The assessor shall list every person in his or her county or city as the case may be and assess all the property therein, personal and real, except such as is heretofore exempted or otherwise assessed. Any person who shall refuse to assist in making out a list of his or her property, or of any property which ~~he~~ the person is by law required to assist in listing, or who shall refuse to make either of the oaths or affirmations or combinations thereof required by section 441.20, shall be guilty of a simple misdemeanor ~~and, upon conviction thereof, shall be fined in a sum not to exceed five hundred dollars~~.

Sec. 358. Section four hundred forty-four point seven (444.7), Code 1975, is amended to read as follows:

444.7 EXCESSIVE TAX PROHIBITED. It is hereby made a simple misdemeanor for the board of supervisors to authorize, or the county auditor to carry upon the tax lists for any year, an amount of tax for any public purpose in excess of the amount certified or authorized as provided by law. The state comptroller shall prescribe and furnish the county auditors forms and instructions to aid them in determining the legality and authorized amount of tax levies. In the

case of an excessive levy, it shall be the duty of the county auditor to reduce it to the maximum amount authorized by law, and in any event not in excess of the amount certified; and in case of an illegal levy the county auditor shall not enter or carry any tax on the tax lists for such levy.

Sec. 359. Section four hundred forty-four point seventeen (444.17), Code 1975, is amended to read as follows:

444.17 PEDDLING WITHOUT LICENSE. Any person peddling outside the limits of a city without such license or after the expiration thereof, shall be guilty of a simple misdemeanor, whether ~~he~~ the person be the owner of the goods sold or carried by him or her or not, and, on conviction thereof, shall forfeit and pay into the county treasury, in addition to the penalty imposed therefor, double the amount of the tax for one year as fixed in section 444.13.

Sec. 360. Section four hundred forty-four point nineteen (444.19), Code 1975, is amended to read as follows:

444.19 VIOLATIONS. Any person exhibiting any such show without first having obtained such license shall be guilty of a simple misdemeanor, and shall also forfeit and pay to the county treasurer double the amount fixed for such license, for the benefit of the school fund.

Sec. 361. Section four hundred forty-six point twenty-six (446.26), Code 1975, is amended to read as follows:

446.26 MISCONDUCT OF OFFICERS. Any treasurer or auditor failing to attend a sale of lands in person or by deputy shall ~~forfeit and pay the sum of one hundred dollars, to be recovered in an action in the name of the county and for its use~~ be guilty of a simple misdemeanor. If such officer or deputy shall sell or assist in selling any real estate, knowing it is not subject to taxation, or that the taxes for which it is sold have been paid, or shall knowingly and willfully sell or assist in selling any real estate for taxes to defraud the owner thereof, or shall knowingly and willfully execute a deed for property so sold, he or she shall, ~~upon conviction, be fined in a sum of not less than one thousand nor more than three thousand dollars, or imprisoned in the~~

~~county jail not exceeding one year, or both fined and imprisoned,~~ be guilty of a serious misdemeanor and shall be liable to pay the injured party all damages sustained by him or her on account thereof, and all such sales shall be void.

Sec. 362. Section four hundred forty-six point twenty-seven (446.27), Code 1975, is amended to read as follows:

446.27 FRAUD OF OFFICERS. If any treasurer or auditor shall be directly or indirectly concerned in the purchase of any real estate sold for the nonpayment of taxes, ~~he~~ the treasurer or auditor and his or her sureties shall be liable on his or her official bond for all damages sustained by the owner of such property, and all such sales shall be void. In addition thereto, the officer so offending shall, ~~upon conviction,~~ be ~~fined in a sum of not more than one thousand dollars~~ guilty of a fraudulent practice.

Sec. 363. Section four hundred fifty point fifty (450.50), Code 1975, is amended to read as follows:

450.50 REMOVAL OF PROPERTY FROM STATE--BOND. It shall be unlawful for any person to remove from this state any property, or the proceeds thereof, that may be subject to the tax imposed by this chapter, without paying the said tax to the department of revenue. Any person violating the provision of this section shall be guilty of a ~~felony~~ serious misdemeanor and upon conviction shall be fined an amount equal to twice the amount of tax, interest, and costs for which the estate may be liable, ~~but in no case less than two hundred dollars, and imprisoned as the court shall direct, until the fine is paid;~~ provided, however, that the penalty hereby imposed shall not be enforced if, prior to the removal of such property or the proceeds thereof, the person desiring to effect such removal files with the clerk a bond conditioned upon the payment of the tax, interest, and costs, as is provided in section 450.49 hereof.

Sec. 364. Section four hundred fifty-two point three (452.3), Code 1975, is amended to read as follows:

452.3 DISCOUNTING WARRANTS. If the ~~state~~ treasurer of state or any county treasurer, by himself or herself or through

another, discounts state comptroller's or auditor's warrants, either directly or indirectly, he or she shall ~~upon conviction be fined in any sum not exceeding one thousand dollars~~ be guilty of a serious misdemeanor.

Sec. 365. Section four hundred fifty-two point four (452.4), Code 1975, is amended to read as follows:

452.4 LOANS BY COUNTY TREASURER. A county treasurer shall be ~~liable to a like fine~~ guilty of a serious misdemeanor for loaning out, or in any manner using for private purposes, state, county, or other funds in ~~his~~ the treasurer's hands.

Sec. 366. Section four hundred fifty-two point five (452.5), Code 1975, is amended to read as follows:

452.5 LOANS BY ~~STATE~~ TREASURER OF STATE. The ~~state~~ treasurer of state shall be ~~liable to a fine of not more than ten thousand dollars for a like~~ guilty of a serious misdemeanor for a like violation.

Sec. 367. Section four hundred fifty-two point fourteen (452.14), Code 1975, is amended to read as follows:

452.14 FALSE STATEMENTS OR REPORTS. Any officer or other person making a false statement or report or in any manner violating any of the provisions of sections 452.10 to 452.13, shall be guilty of a ~~misdemeanor and shall be liable to a fine of not less than five hundred dollars~~ fraudulent practice.

Sec. 368. Section four hundred fifty-two point fifteen (452.15), Code 1975, is amended to read as follows:

452.15 OFFICIAL DELINQUENCY. If any auditor or treasurer or other officer shall neglect or refuse to perform any act or duty specifically required of him or her, such officer shall be guilty of a simple misdemeanor, ~~and, upon conviction, shall be fined in any sum not exceeding one thousand dollars,~~ and he or she and his or her bondsmen shall be liable on his or her official bond for ~~such fine~~ any fine imposed, and for the damages sustained by any person through such neglect or refusal.

Sec. 369. Section four hundred fifty-five point one hundred sixty (455.160), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Any person or persons willfully diverting, obstructing, impeding, or filling up, without legal authority, any ditch, drain, or watercourse or breaking down or injuring any levee or the bank of any settling basin, established, constructed, and maintained under any provision of law, or obstructing, or engaging in travel or agricultural practices upon the improvement or rights of way of a levee or drainage district which the governing body thereof has, by resolution, determined to be injurious to such improvement or to interfere with its proper preservation, operation, or maintenance, and has prohibited, shall be deemed guilty of a serious misdemeanor ~~and-punished-accordingly~~ and any such unlawful act as above described is hereby declared to be a nuisance and may be abated as such.

Sec. 370. Section four hundred fifty-five A point thirty-nine (455A.39), Code 1975, is amended to read as follows:

455A.39 PENALTIES. Whoever is convicted of erecting, causing or continuing a common or public nuisance, as provided in this chapter, or whoever diverts or withdraws water in violation of the provisions of this chapter, upon conviction, shall be ~~fined-not-exceeding-one-hundred-dollars-or-be-imprisoned-in-the-county-jail-not-exceeding-thirty-days~~ guilty of a simple misdemeanor and each day that such violation continues after conviction shall be considered a separate offense.

Sec. 371. Section four hundred fifty-five B point sixty-four (455B.64), Code 1975, is amended to read as follows:

455B.64 MISDEMEANOR. Any person, including any firm, corporation, municipal corporation, or other governmental subdivision or agency, violating any provisions of this part 2 of division III or the rules adopted thereunder after written notice thereof by the executive director is guilty of a simple misdemeanor. Each day of operation in such violation of said part or any rules adopted thereunder shall constitute a separate offense. ~~Upon-conviction,-such-persons-shall-be-fined-not-exceeding-one-hundred-dollars,-or-be-imprisoned-in-the-county-jail-for-not-more-than-thirty-days,-or-by-both-such-fine-and-imprisonment.~~ It shall be the duty of the appropriate county attorney to secure injunctions of continuing violations of any provisions of said part or the rules adopted thereunder.

Sec. 372. Section four hundred fifty-five B point ninety-four (455B.94), Code 1975, is amended to read as follows:

455B.94 PENALTY. Any person who violates any provisions of this part 2 of division IV or rules adopted under said part, or any order of the commission or executive director issued pursuant to said part, shall be ~~punished-by-a-fine-of-not-more-than-five-hundred-dollars-or-by-imprisonment-not-to-exceed-six-months-or-punished-by-both-such-fine-and-imprisonment~~ be guilty of a serious misdemeanor and, in addition, ~~he~~ the person may be enjoined from continuing such violation. Each day of continued violation after notice that a violation is being committed shall constitute a separate violation.

Sec. 373. Section four hundred fifty-five B point ninety-eight (455B.98), Code 1975, is amended to read as follows:

455B.98 PENALTY. Any person violating the provisions of section 455B.97, ~~shall-be-guilty-of-a-misdemeanor-and,~~ upon conviction, shall be ~~subject-to-a-fine-of-not-less-than-fifteen-dollars-nor-more-than-one-hundred-dollars-or-be-imprisoned-in-the-county-jail-not-to-exceed-thirty-days~~ guilty of a simple misdemeanor. The court, in lieu of or in addition to any other sentence imposed, may direct and supervise a labor of litter gathering.

Sec. 374. Section four hundred fifty-five B point one hundred five (455B.105), Code 1975, is amended to read as follows:

455B.105 PENALTY. Any person violating the provisions of sections 455B.100 to 455B.103 or the rules adopted by the commission under said sections is guilty of a simple misdemeanor.

Sec. 375. Section four hundred sixty-nine point thirteen (469.13), Code 1975, is amended to read as follows:

469.13 VIOLATIONS. The construction, maintenance, or

operation of a dam for the purpose specified herein without a permit first being issued, as in this chapter provided, shall constitute a simple misdemeanor~~,-and-shall-be-punishable-by-a-fine-of-not-less-than-one-hundred-dollars-nor-more-than-five-hundred-dollars~~.

Sec. 376. Section four hundred sixty-nine A point seven (469A.7), Code 1975, is amended to read as follows:

469A.7 PENALTY. Any person, firm, association or corporation who shall violate the provisions of section 469A.1, shall be guilty of a serious misdemeanor ~~and-upon-conviction-shall-be-punished-by-a-fine-of-not-less-than-one-hundred-dollars-nor-more-than-one-thousand-dollars,-or-shall-be-imprisoned-in-the-county-jail-for-not-less-than-thirty-days-nor-more-than-six-months,-or-by-both-such-fine-and-imprisonment~~. Each separate day that a violation occurs shall constitute a separate offense.

Sec. 377. Section four hundred seventy-four point twenty-one (474.21), Code 1975, is amended to read as follows:

474.21 HINDERING OR OBSTRUCTING DEPARTMENT. Any person who shall willfully obstruct ~~it-or-its-members~~ the department or board in the performance of their duties, or who shall refuse to give any information within ~~his~~ the person's possession that may be required by ~~it-within-the-line-of-its-duty~~ the department or board for the performance of their duties, shall be ~~fined-not-exceeding-one-thousand-dollars,-in-the-discretion-of-the-court~~ guilty of a simple misdemeanor.

Sec. 378. Section four hundred seventy-seven point fifteen (477.15), Code 1975, is amended to read as follows:

477.15 VIOLATIONS. Any railroad corporation~~,-company,-or-person~~ operating ~~a-railroad-in-this-state-and-using-a-locomotive-engine,-or-running-a-train-of-cars,~~ or using in this state any train, engine, freight, car ~~way~~, caboose, or other car contrary to the provisions of sections 477.12 to ~~477.14~~ four hundred seventy-seven point thirteen (477.13) of the Code shall be guilty of a serious misdemeanor, ~~and-shall-be-subject-to-a-fine-of-not-less-than-five-hundred-nor-more-than-one-thousand-dollars-for-each-and-every-offense,-but-such-penalties-shall-not-apply-to-companies-hauling-cars-belonging-to-railroads-other-than-those-of-this-state-which-are-engaged-in-interstate-traffic~~.

Sec. 379. Section four hundred seventy-seven point nineteen (477.19), Code 1975, is amended to read as follows:

477.19 VIOLATIONS. Any ~~person,~~ railway ~~company,-terminal-transfer,-or-other~~ corporation ~~or-company-who~~ which violates any of the provisions of section 477.17 shall be deemed guilty of a serious misdemeanor ~~and-upon-conviction-shall-be-punished-by-a-fine-of-not-less-than-fifty-dollars-or-more-than-five-hundred-dollars-for-any-such-violation~~, and each day that every such engine is operated shall constitute a separate and distinct violation of said section.

Sec. 380. Section four hundred seventy-seven point twenty-four (477.24), Code 1975, is amended to read as follows:

477.24 VIOLATIONS. Any ~~person,-firm,-or~~ railroad corporation owning such line of railway or the equipment operated thereon, ~~who~~ which shall cause or permit any locomotive, power vehicle, power car, or other equipment used as the equivalent thereof, to be operated without being equipped with the headlight required by the provisions of section 477.22 shall be deemed guilty of a serious misdemeanor ~~and,-upon-conviction,-shall-be-punished-by-a-fine-of-not-less-than-one-hundred-dollars-nor-more-than-five-hundred-dollars-for-each-offense~~.

Sec. 381. Section four hundred seventy-seven point twenty-eight (477.28), Code 1975, is amended to read as follows:

477.28 VIOLATIONS. Any common carrier as provided in section 477.26 violating any of the provisions of section 477.27 shall be deemed guilty of a simple misdemeanor~~,-and-upon-conviction-thereof-shall-be-fined-not-less-than-one-hundred-dollars-nor-more-than-five-hundred-dollars-for-each-offense~~.

Sec. 382. Section four hundred seventy-seven point forty (477.40), Code 1975, is amended to read as follows:

477.40 VIOLATIONS. Any railroad ~~company~~ corporation which after receiving said notice fails to comply, within the time

fixed, with the provisions of section 477.37, shall be guilty of a simple misdemeanor ~~and upon conviction shall be fined not exceeding one hundred dollars for each offense~~ and the inspector shall file information in such a case.

Sec. 383. Section four hundred seventy-seven point fifty-four (477.54), Code 1975, is amended to read as follows:

477.54 VIOLATIONS. Any failure to comply with the provisions of section 477.53 shall be deemed a simple misdemeanor ~~and shall be punished accordingly~~.

Sec. 384. Section four hundred seventy-seven point sixty-two (477.62), Code 1975, is amended to read as follows:

477.62 PENALTY. Any railroad corporation found guilty of violating the provisions of section 477.61 shall be ~~fined not less than twenty-five dollars nor more than one hundred dollars for each violation~~ guilty of a simple misdemeanor.

Sec. 385. Section four hundred seventy-seven point sixty-three (477.63), Code 1975, is amended to read as follows:

477.63 SCREEN EXHAUST FIRE CONTROLS. No locomotive or other rolling stock shall be operated unless it is equipped with proper deflector and screen exhaust fire controls and uses adequate devices to prevent the escape of blowing or burning materials or substances and is maintained in good working order to protect against the start and spread of fires along the right of way. A violation of this section shall be a simple misdemeanor ~~punishable by a fine of not more than one hundred dollars or thirty days in jail~~. The railroad corporation, and any officers, agent, lessee or independent contractor found guilty of a violation of this section shall be ~~punishable by a fine of not more than one hundred dollars or thirty days in jail~~ guilty of a simple misdemeanor.

Sec. 386. Section four hundred seventy-eight point ten (478.10), Code 1975, is amended to read as follows:

478.10 FAILURE TO FENCE--GENERAL PENALTY. If the railroad corporation~~, officer thereof or lessee owning or engaged in the operation of any railroad in the state~~ refuses or neglects to comply with any provision of this chapter relating to the fencing of the tracts, such railroad corporation~~, officer,~~

~~or lessee~~ shall be guilty of a simple misdemeanor~~, and upon conviction fined in a sum not exceeding five hundred dollars for each offense,~~ and every thirty days' continuance of such refusal or neglect shall constitute a separate and distinct offense.

Sec. 387. Section four hundred seventy-eight point twenty (478.20), Code 1975, is amended to read as follows:

478.20 VIOLATIONS. Any officer or employee of any railway ~~company~~ corporation violating any of the provisions of section 478.19 shall be ~~punished by a fine not exceeding one hundred dollars for each offense~~ guilty of a simple misdemeanor.

Sec. 388. Section four hundred seventy-nine point twenty-nine (479.29), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seventy (170), section twenty-seven (27) is amended to read as follows:

479.29 PENALTY FOR DISCRIMINATION. Any such corporation guilty ~~of extortion, or~~ of making any unjust discriminaton as to freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freights, shall~~, upon conviction thereof, be fined in any sum not less than one thousand dollars nor more than five thousand dollars for the first offense, and for each subsequent offense not less than five thousand nor more than ten thousand dollars such fine to be imposed in a criminal prosecution by indictment~~ be guilty of an aggravated misdemeanor; or shall be subject to the liability prescribed in section 479.30, to be recovered as therein provided.

Sec. 389. Section four hundred seventy-nine point thirty (479.30), Code 1975, is amended to read as follows:

479.30 CIVIL FORFEITURE. Any ~~such~~ railway corporation ~~guilty of extortion, or of~~ making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freights, shall ~~forfeit and pay to the state not less than one thousand nor more than five thousand~~

~~dollars for the first offense, and not less than five thousand nor more than ten thousand dollars for each subsequent offense, to be recovered in a civil action in the name of the state; and the release from liability or penalty provided for in this chapter shall not apply to a criminal prosecution under section 479.29, or to a civil action under this section~~ be guilty of a fraudulent practice.

Sec. 390. Section four hundred seventy-nine point one hundred eight (479.108), Code 1975, is amended to read as follows:

479.108 VIOLATION--PENALTY. Any common carrier operating in this state violating any of the provisions of sections 479.103 to 479.107 by neglecting or refusing to weigh cars or to furnish certificates of weights as therein provided shall be guilty of a simple misdemeanor ~~and shall be, upon conviction thereof, fined in the sum of not more than one hundred twenty-five dollars for each and every violation~~.

Sec. 391. Section four hundred eighty-eight point six (488.6), Code 1975, is amended to read as follows:

488.6 DELAY--WILLFUL ERROR--REVEALING CONTENTS. Any person employed in transmitting messages by telegraph or telephone must do so with fidelity and without unreasonable delay, and if anyone willfully fails thus to transmit them, or intentionally transmits a message erroneously, or makes known the contents of any message sent or received to any person except ~~him~~ the person to whom it is addressed, or ~~his~~ such person's agent or attorney, or willfully and wrongfully takes or receives any telegraph or telephone message, ~~he~~ the person is guilty of a simple misdemeanor.

Sec. 392. Section four hundred eighty-nine point twenty-four (489.24), Code 1975, is amended to read as follows:

489.24 VIOLATIONS. Any person, company, or corporation constructing or undertaking to construct or maintain any electric transmission line, without first procuring a franchise for such purpose in accordance with the provisions of this chapter, shall be ~~fined in the sum of not less than one hundred dollars nor more than one thousand dollars~~ guilty

of a serious misdemeanor; and for violating any of the other provisions of this chapter relating to electric transmission lines or disobeying any order or rule made by the state commerce commission in relation thereto, shall be ~~fined not exceeding one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 393. Section four hundred ninety-one point forty (491.40), Code 1975, is amended to read as follows:

491.40 FRAUD--PENALTY FOR. Intentional fraud in failing to comply substantially with the articles of incorporation, or in deceiving the public or individuals in relation to their means or their liabilities, shall be a ~~misdemeanor, and shall subject those guilty thereof to fine and imprisonment, or both, at the discretion of the court~~ fraudulent practice. Any person who has sustained injury from such fraud may also recover damages therefor against those guilty of participating in such fraud.

Sec. 394. Section four hundred ninety-one point forty-three (491.43), Code 1975, is amended to read as follows:

491.43 KEEPING FALSE ACCOUNTS. The intentional keeping of false books or accounts shall be a ~~misdemeanor~~ fraudulent practice on the part of any officer, agent, or employee of the corporation guilty thereof, or of anyone whose duty it is to see that such books or accounts are correctly kept.

Sec. 395. Section four hundred ninety-one point sixty-eight (491.68), Code 1975, is amended to read as follows:

491.68 FALSE STATEMENTS OR PRETENSES. Every director, officer, or agent of any corporation or joint-stock association, who knowingly concurs in making, publishing, or posting, either generally or privately to the stockholders or other persons, any written report, exhibit, or statement of its affairs or pecuniary condition, or book or notice containing any material statement which is false, or any untrue or willfully or fraudulently exaggerated report, prospectus, account, statement of operations, values, business, profits, expenditures, or prospects, or any other paper or document intended to produce or give, or having a tendency to produce or give, the shares of stock in such corporation a greater

value or a less apparent or market value than they really possess, is guilty of a ~~felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary not to exceed one year, or by imprisonment in the county jail not to exceed six months or a fine not exceeding five hundred dollars~~ fraudulent practice.

Sec. 396. Section four hundred ninety-two point three (492.3), Code 1975, is amended to read as follows:

492.3 PENALTIES. Any person violating the provisions of sections 492.1 and 492.2, or knowingly making a false statement on such certificate, shall be ~~fined not less than one hundred dollars nor more than five hundred dollars, and shall stand committed to the county jail until such fine and costs are paid~~ guilty of a fraudulent practice.

Sec. 397. Section four hundred ninety-two point twelve (492.12), Code 1975, is amended to read as follows:

492.12 VIOLATIONS. Any officer, agent or representative of a corporation who violates any of the provisions of sections 492.5 to 492.8 shall, ~~upon conviction, be fined not less than two hundred dollars nor more than ten hundred dollars, and be imprisoned in the county jail for not less than thirty days nor more than six months~~ be guilty of a simple misdemeanor.

Sec. 398. Section four hundred ninety-four point thirteen (494.13), Code 1975, is amended to read as follows:

494.13 VIOLATIONS BY OFFICERS. Any agent, officer, or employee who shall knowingly act or transact such business for such corporation, when it has no valid permit as provided herein, shall be guilty of a simple misdemeanor, ~~and for such offense shall be fined not to exceed one hundred dollars, or be imprisoned in the county jail not to exceed thirty days, or be punished by both such fine and imprisonment, and pay all costs of prosecution~~.

Sec. 399. Section four hundred ninety-six A point one hundred thirty-one (496A.131), Code 1975, is amended to read as follows:

496A.131 PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS.

Each officer and director of a corporation, domestic or foreign, who willfully fails or refuses within the time prescribed by this chapter to answer truthfully and fully reasonable and proper interrogatories propounded to ~~him~~ the officer or director by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a ~~misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars~~ fraudulent practice.

Sec. 400. Section four hundred ninety-six A point one hundred forty-five (496A.145), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any person convicted of a violation of any of the provisions of this section shall be ~~punished by imprisonment in the county jail not less than six months or more than one year and, in the discretion of the court, by a fine not exceeding ten hundred dollars~~ guilty of a serious misdemeanor.

Sec. 401. Section five hundred one point six (501.6), Code 1975, is amended to read as follows:

501.6 UNAUTHORIZED COMPANIES--PENALTY. Any member or representative of any association who shall attempt to issue or sell any stock as contemplated by this chapter or to transact any business whatsoever in the name of or on behalf of such association, not authorized to do business within this state, or which has failed or refused to comply with the provisions of this chapter, or has violated any of its provisions shall be deemed guilty of a serious misdemeanor ~~and on conviction thereof shall be punished by imprisonment in the county jail not to exceed one year, or by a fine of not less than one hundred nor more than ten hundred dollars or by both such fine and imprisonment in the discretion of the court~~.

Sec. 402. Section five hundred two point twenty-six (502.26), Code 1975, is amended to read as follows:

502.26 FALSE STATEMENTS, ENTRIES, AND REPRESENTATIONS. Any person, firm, association, company, or corporation subject to the provisions of this chapter, that shall subscribe or cause to be made any false statement or false entry in any book required to be kept or relating to any business to be transacted in this state pursuant to the provisions of this chapter, or make or subscribe to any false statement, exhibit or paper filed with the commissioner of insurance, or shall make to the commissioner of insurance, ~~his~~ the commissioner's superintendent, agent, or representative any false or fraudulent statement concerning the proposed plan of business to be transacted, or the nature, value or character of securities to be sold in this state, or shall make to said commissioner of insurance, ~~his~~ the commissioner's superintendent, agent or representative any false statement as to the financial condition of such person, firm, association, company, or corporation shall be deemed guilty of a ~~felony, and upon conviction shall be fined in the sum of not more than five thousand dollars, or imprisoned not to exceed five years in the penitentiary or reformatory, or by both such fine and imprisonment in the discretion of the court~~ fraudulent practice.

Sec. 403. Section five hundred two point twenty-seven (502.27), Code 1975, is amended to read as follows:

502.27 GENERAL VIOLATIONS. Any person, firm, association, company, or corporation subject to the provisions of this chapter that shall sell or negotiate for the sale of any securities within this state without complying with the provisions of this chapter, or that continues to sell, offer for sale, or negotiates for the sale of securities in this state after his or her registration has been revoked or canceled by the commissioner of insurance, or that shall otherwise neglect or refuse to comply with any of the provisions of this chapter, shall be guilty of a serious misdemeanor ~~and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail not to exceed six months or by both such~~

~~fine and imprisonment in the discretion of the court~~, and if it shall be found that any such person is guilty of such a violation with the intent to defraud ~~he~~ the person shall be guilty of a class "D" felony ~~and upon conviction thereof shall be fined not to exceed five thousand dollars or be imprisoned not to exceed five years in the penitentiary or reformatory or by both such fine and imprisonment in the discretion of the court~~.

Sec. 404. Section five hundred two point twenty-eight (502.28), Code 1975, is amended to read as follows:

502.28 FALSE REPRESENTATIONS. Any person, firm, association, company, or corporation, or any agent or representative thereof, whether subject to the provisions of this chapter or otherwise, that sells, offers for sale, or negotiates for the sale of any securities within this state, and knowingly makes any false representations or statements as to the nature, character, or value of such security, or the amount of the earning power of such security whether in the nature of interest, dividends, or otherwise, or knowingly makes any other false or fraudulent representation to any person for the purpose of inducing said person to purchase said security, or conceals any material fact in the advertisement or prospectus of such security for the purpose of defrauding the purchaser, shall be deemed guilty of a ~~felony and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars or by imprisonment in the penitentiary or reformatory for not more than five years or by both such fine and imprisonment~~ fraudulent practice.

Sec. 405. Section five hundred two point twenty-nine (502.29), Code 1975, is amended to read as follows:

502.29 PROMOTION BY STATE OFFICIALS AND EMPLOYEES. No state official or employee of the state shall use his or her name in his or her official capacity in connection with the endorsement or recommendation of the organization or the promotion of any company or in the disposal to the public of its securities, nor shall anyone use the stationery of

the state or of any official thereof in connection with any such transaction. Whoever violates the aforesaid provision shall, upon conviction by any court of competent jurisdiction, be deemed guilty of a serious misdemeanor ~~and fined in any sum not to exceed five hundred dollars or be punished by confinement in a county jail for not more than ninety days or by both such fine and imprisonment~~.

Sec. 406. Section five hundred two point thirty (502.30), Code 1975, is amended to read as follows:

502.30 SECRET AGENTS--FAILURE TO DISCLOSE INTEREST. Any individual, not licensed as a dealer or salesman, who, with intent to secure financial gain for himself or herself, advises and procures or assists in procuring any person to purchase any securities contemplated by this chapter and who receives for such service any commission or reward, without disclosing to the purchaser the fact of his or her interest shall, in addition to any other penalty, be guilty of a simple misdemeanor.

Sec. 407. Section five hundred three point thirteen (503.13), Code 1975, is amended to read as follows:

503.13 MISDEMEANOR. Any member, salesman, agent, or representative of any association, who shall attempt to issue any membership as contemplated by this chapter, or to transact any business whatsoever, in the name of or on behalf of such association not authorized to do business in this state, or which has failed or refused to comply with the provisions of this chapter, or has violated any of its provisions, shall be deemed guilty of ~~a~~ an aggravated misdemeanor~~, and on conviction thereof shall be punished by imprisonment in the penitentiary not to exceed five years, or fined not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment~~.

Sec. 408. Section five hundred four point thirteen (504.13), Code 1975, is amended to read as follows:

504.13 PENALTY. A violation of section 504.12 by a corporation shall be ~~punished by a fine of not more than one thousand dollars~~ a fraudulent practice. A violation of section 504.12 by an individual conducting an academic course or by an officer or managing head of a corporation shall be ~~punished by imprisonment in the penitentiary or men's or women's reformatory not more than seven years, or by fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment~~ a fraudulent practice.

Sec. 409. Section five hundred four A point eighty-seven (504A.87), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Each corporation, domestic or foreign, that fails or refuses to answer truthfully and fully within the time prescribed by this chapter reasonable and proper interrogatories propounded by the secretary of state in accordance with the provisions of this chapter, shall be deemed to be guilty of a simple misdemeanor ~~and upon conviction thereof may be fined in an amount not exceeding five hundred dollars~~.

Sec. 410. Section five hundred four A point eighty-eight (504A.88), Code 1975, is amended to read as follows:

504A.88 PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS. Each director and officer of a corporation, domestic or foreign, who willfully fails or refuses within the time prescribed by this chapter to answer truthfully and fully reasonable and proper interrogatories propounded to ~~him~~ the director or officer by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a simple misdemeanor~~, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars~~.

Sec. 411. Section five hundred six point seven (506.7), Code 1975, is amended to read as follows:

506.7 PENALTY. Any person who violates any of the provisions of the preceding sections of this chapter, or who violates any order of the commissioner of insurance made by

authority thereof, shall be guilty of a simple misdemeanor~~, and upon conviction thereof shall be punished by fine not to exceed one thousand dollars, and by imprisonment in the county jail not to exceed six months~~.

Sec. 412. Section five hundred seven point sixteen (507.16), Code 1975, is amended to read as follows:

507.16 UNLAWFUL SOLICITATION OF BUSINESS. Any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, solicits insurance for said company, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said company, shall be deemed guilty of a serious misdemeanor ~~and shall be subject to the penalties provided in sections 511.16 and 511.17~~, and the provisions of said sections are hereby extended to all companies contemplated by this chapter.

Sec. 413. Section five hundred seven A point ten (507A.10), Code 1975, is amended to read as follows:

507A.10 PENALTIES. Any unauthorized foreign or alien insurer who does any unauthorized act of an insurance business as set forth in this chapter shall be ~~fined not more than five thousand dollars. In addition to any other penalty provided for in this chapter or otherwise provided by law, any person or insurer violating this chapter shall forfeit to the state the sum of five hundred dollars for each offense and an additional sum of five hundred dollars for each month during which any such person or insurer continues such violation~~ guilty of a fraudulent practice.

Sec. 414. Section five hundred eight point twenty-seven (508.27), Code 1975, is amended to read as follows:

508.27 VIOLATIONS. Any company violating any of the provisions of section 508.25 shall~~, upon conviction thereof,~~ be ~~fined in a sum not less than one hundred nor more than one thousand dollars for each such offense~~ guilty of a simple misdemeanor, and the court may also revoke its authority to

do business within this state.

Sec. 415. Section five hundred nine point eighteen (509.18), Code 1975, is amended to read as follows:

509.18 PROHIBITED DEPOSIT IN FINANCIAL INSTITUTION. A company or its agent licensed to sell a policy of credit life or credit accident and health insurance or certificate under a policy of group credit life or credit accident and health insurance shall not deposit or offer to deposit funds in a financial institution of this state in exchange for the privilege of selling such insurance to or on behalf of the financial institution. Any person violating the provisions of this section shall be guilty of a simple misdemeanor.

Sec. 416. Section five hundred eleven point sixteen (511.16), Code 1975, is amended to read as follows:

511.16 ILLEGAL BUSINESS. Any officer, manager, or agent of any life insurance company or association who, with knowledge that it is doing business in an unlawful manner or is insolvent, solicits insurance with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of ~~a~~ an aggravated misdemeanor~~, and for every such act, on conviction thereof, shall be adjudged to pay a fine of not less than one hundred nor more than one thousand dollars, or be imprisoned in the county jail not exceeding one year, or be punished by both such fine and imprisonment~~.

Sec. 417. Section five hundred eleven point eighteen (511.18), Code 1975, is amended to read as follows:

511.18 FRAUD IN PROCURING INSURANCE. Any agent, physician, or other person who shall knowingly, by means of concealment of facts or false statements, procure or assist in procuring from any life insurance organization any policy or certificate of insurance, shall be ~~punished by a fine of not to exceed one thousand dollars or by imprisonment in the county jail not to exceed one year, or by both, in the discretion of the court~~ guilty of a fraudulent practice.

Sec. 418. Section five hundred twelve point thirty-nine

(512.39), Code 1975, is amended to read as follows:

512.39 VIOLATIONS. Any officer, agent, or person acting for any such association or subordinate body thereof within this state, while such association shall be so enjoined or prohibited from doing business pursuant to this chapter, shall be deemed guilty of a serious misdemeanor~~, and, on conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court~~.

Sec. 419. Section five hundred twelve point forty (512.40), Code 1975, is amended to read as follows:

512.40 ILLEGAL BUSINESS--AGENTS. Any person who shall act within this state as an officer, agent, or otherwise for any such association which has failed, neglected, or refused to comply with, or which has violated any of the provisions of this chapter, or shall have failed or neglected to procure from the commissioner of insurance proper certificate of authority to transact business as provided for by this chapter, shall be ~~subject to the penalty provided in section 512.39 for the~~ guilty of a serious misdemeanor ~~therein specified~~.

Sec. 420. Section five hundred twelve point forty-one (512.41), Code 1975, is amended to read as follows:

512.41 FALSE REPRESENTATIONS. Any officer, agent, or member of such association, who shall obtain any money or property belonging thereto by any false or fraudulent representation, shall be ~~fined not more than five hundred dollars and costs, and stand committed until such fine and costs are paid, or may be imprisoned in the county jail not more than six months~~ guilty of a fraudulent practice.

Sec. 421. Section five hundred twelve point eighty (512.80), Code 1975, is amended to read as follows:

512.80 VIOLATIONS. Any officer, director, or manager of any association violating or consenting to the violation of any of the provisions of sections 512.73 to 512.78 shall

be ~~punished by a fine of not less than ten hundred dollars, or by imprisonment in the county jail not less than one year, or by both such fine and imprisonment in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 422. Section five hundred twelve point one hundred three (512.103), Code 1975, is amended to read as follows:

512.103 ILLEGAL BUSINESS. Any officer, manager, agent, or representative of any association who with knowledge that its certificate of authority has been suspended or revoked, or that it is doing an illegal, unauthorized, or fraudulent business solicits insurance for said association, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said association, shall be deemed guilty of ~~a~~ an aggravated misdemeanor ~~and for every such act, on conviction thereof, shall pay a fine of not less than one hundred nor more than ten hundred dollars, or be imprisoned in the county jail not more than one year, or be punished by both such fine and imprisonment~~.

Sec. 423. Section five hundred twelve A point eight (512A.8), Code 1975, is amended to read as follows:

512A.8 PENALTIES. Except as otherwise provided by law, it shall be unlawful for any person or corporation to operate a benevolent association in this state except as provided for in this chapter. Any person violating the provisions of this chapter shall be ~~subject to a fine not exceeding one thousand dollars or imprisonment in the county jail not exceeding thirty days, or both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 424. Section five hundred fourteen B point twenty-nine (514B.29), Code 1975, is amended to read as follows:

514B.29 ~~PENALTIES--INDICTABLE MISDEMEANOR~~ PENALTY. Where no other penalty is provided for in this chapter, any person who violates any of the provisions of this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not to exceed one hundred dollars or by imprisonment for a period not to exceed thirty days or be punished by both such fine and imprisonment~~.

Sec. 425. Section five hundred fifteen point sixty (515.60), Code 1975, is amended to read as follows:

515.60 PENALTY. Any employee, representative, or agent of an insurance company violating any of the provisions of sections 515.52 to 515.59 shall be guilty of a simple misdemeanor~~,-and-upon-conviction-shall-be-liable-to-imprisonment for-a-term-of-not-to-exceed-thirty-days-or-for-a-fine-not to-exceed-one-hundred-dollars-or-for-both-such-fine-and imprisonment~~.

Sec. 426. Section five hundred fifteen point one hundred twenty (515.120), Code 1975, is amended to read as follows:

515.120 VIOLATIONS. Any officer, manager, or agent of any insurance company or association who, with knowledge that it is doing business in an unlawful manner, or is insolvent, solicits insurance with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of a ~~misdemeanor,-and for-every-such-act,-on-conviction-thereof,-shall-be-adjudged to-pay-a-fine-of-not-less-than-one-hundred-nor-more-than-one thousand-dollars,-or-be-imprisoned-in-the-county-jail-not exceeding-one-year,-or-be-punished-by-both-such-fine-and imprisonment~~ fraudulent practice.

Sec. 427. Section five hundred fifteen point one hundred twenty-one (515.121), Code 1975, is amended to read as follows:

515.121 OFFICERS PUNISHED. Any president, secretary, or other officer of any company organized under the laws of this state, or any officer or person doing or attempting to do business in this state for any insurance company organized either within or without this state, failing to comply with any of the requirements of this chapter, or violating any of the provisions thereof, shall be guilty of a simple misdemeanor~~,-and-upon-conviction-thereof-shall-be-fined-in a-sum-not-exceeding-one-thousand-dollars,-and-be-imprisoned in-the-county-jail-for-a-period-not-less-than-thirty-days nor-more-than-six-months~~.

Sec. 428. Section five hundred fifteen point one hundred thirty-two (515.132), Code 1975, is amended to read as follows:

515.132 VIOLATIONS. Any such company, officer, agent, or employee violating the above provision shall be guilty of a simple misdemeanor~~,-and-on-conviction-thereof-shall-pay a-penalty-of-not-less-than-one-hundred-dollars-nor-more-than five-hundred-dollars-for-each-offense,-to-be-recovered-in the-name-of-the-state-for-the-use-of-the-permanent-school fund~~.

Sec. 429. Section five hundred fifteen point one hundred forty (515.140), Code 1975, is amended to read as follows:

515.140 VIOLATIONS--STATUS OF POLICY. Any insurance company, its officers or agents, or either of them, violating any of the provisions of section 515.138, by issuing, delivering, or offering to issue or deliver any policy of fire insurance on property in this state other or different from the standard form, herein provided for, shall be guilty of a simple misdemeanor, ~~and-upon-complaint-made-by-the-commissioner-of-insurance,-or-by-any-citizen-of-this-state,-shall, upon-conviction-thereof,-be-punished-by-a-fine-of-not-less than-fifty-dollars-nor-more-than-one-hundred-dollars-for-the first-offense,-and-not-less-than-one-hundred-dollars-nor-more than-two-hundred-dollars-for-each-subsequent-offense,~~ but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the same, and such company shall, until the payment of such fine, be disqualified from doing any insurance business in this state; but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the same.

Sec. 430. Section five hundred fifteen point one hundred forty-five (515.145), Code 1975, is amended to read as follows:

515.145 VIOLATIONS. Any violation of section 515.142 shall ~~be-punished-by-a-fine-of-not-exceeding-five-hundred dollars~~ constitute a simple misdemeanor.

Sec. 431. Section five hundred eighteen A point forty-

one (518A.41), Code 1975, is amended to read as follows:

518A.41 AGENTS TO BE LICENSED. No person or corporation shall solicit any application for insurance for any association in this state without having procured from the commissioner of insurance a license authorizing him to act as agent. Violation of this provision shall ~~be punished by a fine not exceeding twenty-five dollars per day~~ constitute a serious misdemeanor.

Sec. 432. Section five hundred twenty point fourteen (520.14), Code 1975, is amended to read as follows:

520.14 VIOLATIONS--EXCEPTIONS. Any attorney who shall exchange any contracts of insurance of the kind and character specified in this chapter, or any attorney or representative of such attorney, who shall solicit or negotiate any applications for the same without the attorney having first complied with the foregoing provisions, shall be deemed guilty of a simple misdemeanor ~~and, upon conviction, shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars~~. For the purpose of organization and upon issuance of permit by the commissioner of insurance, powers of attorney and applications for such contracts may be solicited without compliance with the provisions of this chapter, but no attorney, agent, or other person shall make any such contracts of indemnity until all of the provisions of this chapter shall have been complied with.

Sec. 433. Section five hundred twenty-one point fifteen (521.15), Code 1975, is amended to read as follows:

521.15 VIOLATIONS. Any officer, director or stockholder of any company or companies, as defined in section 521.1, violating or consenting to the violation of any of the provisions of sections 521.2 to 521.13 shall be ~~punished by a fine of not less than one thousand dollars, or by imprisonment in the county jail for not less than one year, or by both such fine and imprisonment in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 434. Section five hundred twenty-one A point ten (521A.10), Code 1975, is amended to read as follows:

521A.10 CRIMINAL PROCEEDINGS. Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this chapter, the commissioner may cause criminal proceedings to be instituted by the district court for the county in which the principal office of the insurer is located or if such insurer has no such office in the state, then by the district court of Polk county against such insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this chapter ~~may be fined not more than one hundred dollars~~ commits a serious misdemeanor. Any individual who willfully violates this chapter ~~may be fined not more than one thousand dollars or, if such willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned not more than two years or both~~ commits a serious misdemeanor.

Sec. 435. Section five hundred twenty-two point five (522.5), Code 1975, is amended to read as follows:

522.5 VIOLATIONS. Any person acting as agent or otherwise representing any insurance company or association, in violation of the provisions of section 522.1, shall be ~~liable to a fine of twenty-five dollars for each day he shall so act~~ guilty of a serious misdemeanor.

Sec. 436. Section five hundred twenty-three point two (523.2), Code 1975, is amended to read as follows:

523.2 CONDITIONS. The commissioner of insurance shall promulgate such rules with respect to the solicitation and voting of proxies as will in ~~his~~ the commissioner's opinion best protect the interests of all stockholders or policyholders from whom they are solicited. Any violation of any rule promulgated hereunder shall be deemed a simple misdemeanor ~~and punishable accordingly~~.

Sec. 437. Section five hundred twenty-three A point four (523A.4), Code 1975, is amended to read as follows:

523A.4 PENALTY. Any person, firm or corporation, or any agent or representative thereof, who shall violate any of the provisions of sections 523A.1 and 523A.2, or who shall

aid and abet in such violation, shall be deemed guilty of a an aggravated misdemeanor.

Sec. 438. Section five hundred twenty-four point one thousand six hundred one (524.1601), subsection one (1), Code 1975, is amended to read as follows:

1. A director, officer or employee of a state bank who willfully violates any of the provisions of subsection 4 of section 524.612, section 524.613, subsection 2 of section 524.706, insofar as such subsection incorporates subsection 4 of section 524.612, or section 524.710, shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both,~~ plus, in the following circumstances, an additional fine or fines equal to:

Sec. 439. Section five hundred twenty-four point one thousand six hundred one (524.1601), subsections two (2), three (3), and four (4), Code 1975, are amended to read as follows:

2. A director or officer who willfully makes or receives a loan in violation of subsection 1 of section 524.612, or subsection 1 of section 524.706, shall be guilty of a serious misdemeanor and, ~~upon conviction thereof,~~ shall be subject to ~~imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both, plus~~ an additional fine equal to that amount of the loan in excess of the limitation imposed by such subsections, and shall be forever disqualified from acting as a director or officer of any state bank. For the purpose of this subsection, amounts which are treated as obligations of an officer or director pursuant to subsection 5 of section 524.612, shall be considered in determining whether the loan or extension of credit is in violation of subsection 1 of section 524.612 and subsection 1 of section 524.706.

3. A director, officer or employee of a state bank who willfully makes or receives a loan or extension of credit of funds held by the state bank as fiduciary, in violation

of subsection 4 of section 524.1002, shall be guilty of a serious misdemeanor and, ~~upon conviction thereof~~ shall be subject to ~~imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both, plus~~ a further fine equal to the amount of the loan or extension of credit made in violation of subsection 4 of section 524.1002, and shall be forever disqualified from acting as a director, officer or employee of any state bank.

4. A director, officer or employee of a state bank who willfully violates, or participates in the violation of, section 524.814, or section 524.819, shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both.~~

Sec. 440. Section five hundred twenty-four point one thousand six hundred three (524.1603), subsection one (1), Code 1975, is amended to read as follows:

1. Any person who willfully engages in the business of receiving money for deposit or transacts the business generally done by banks, or who willfully establishes a place of business for such purposes, in violation of subsection 1 of section 524.107, shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to:~~

~~a. In the case of an individual, imprisonment in the county jail for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both.~~

~~b. In the case of any other person, to a fine not exceeding five thousand dollars.~~

Sec. 441. Section five hundred twenty-four point one thousand six hundred four (524.1604), subsections one (1) and three (3), Code 1975, are amended to read as follows:

1. Any person whose duty it is to make statements or file reports as may be required by this chapter, and who willfully neglects or refuses to perform such duty, shall be guilty of a simple misdemeanor ~~and, upon conviction thereof, shall~~

~~be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars~~.

3. Any officer or employee who violates section 524.709 shall be guilty of a simple misdemeanor ~~and shall, upon conviction thereof, be subject to imprisonment in the county jail for a period not to exceed one year or a fine not exceeding one thousand dollars, or both~~.

Sec. 442. Section five hundred twenty-four point one thousand six hundred five (524.1605), Code 1975, is amended to read as follows:

524.1605 FALSE STATEMENTS, REPORTS AND FRAUDULENT ACTS.

1. Any director, officer or employee of a state bank who shall knowingly subscribe or make any false statements or false entries in the books, records, or memoranda of a state bank, or knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine its condition, or shall knowingly subscribe or make false reports, or shall knowingly divert the funds of the state bank to other purposes than those authorized by law, or who commits any other act with intent to defraud the state bank or any other person shall~~, upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding five years or a fine not exceeding ten thousand dollars, or both~~ be guilty of a class "C" felony, and shall be forever disqualified from acting as a director, officer or employee of any state bank.

2. Any officer or employee of a state bank who, with intent to defraud the state bank or any other person, certifies any check when there are not sufficient funds on hand available to the credit of the drawer of said check to pay the same, or who issues any certificate of deposit when funds have not been deposited equal to the amount of such certificate, or who, with intent to defraud the state bank or any other person, draws any draft or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation or instrument, or participates

in, or receives directly or indirectly any money, property or other benefit from any transaction, loan, contract or other act of a state bank shall~~, upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding five years, or a fine not exceeding ten thousand dollars, or both, or be subject to imprisonment in the county jail for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both~~ be guilty of a class "C" felony, and shall, in either event be forever disqualified from acting as an officer or employee of any state bank.

Sec. 443. Section five hundred twenty-four point one thousand six hundred six (524.1606), Code 1975, is amended to read as follows:

524.1606 FRAUDULENT ADVERTISING OR NOTICE. A state bank shall not publish, disseminate or distribute any advertising or notice containing any false, misleading or deceptive statements concerning the rates, terms or conditions on which loans are made or deposits are received, any charge which the state bank is authorized to impose pursuant to this chapter, or the financial condition of the state bank. Any officer or employee of a state bank who willfully violates the provisions of this section shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both~~ fraudulent practice.

Sec. 444. Section five hundred twenty-four point one thousand six hundred seven (524.1607), Code 1975, is amended to read as follows:

524.1607 FALSE STATEMENT FOR CREDIT. Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person, or any other person in which such person is interested or for whom such person is acting, with the intent that such statement shall be relied upon by a bank for the purpose of

procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~ fraudulent practice.

Sec. 445. Section five hundred twenty-four point one thousand six hundred eight (524.1608), Code 1975, is amended to read as follows:

524.1608 PENALTY FOR ACCEPTING DEPOSITS WHILE INSOLVENT. If a state bank shall accept any deposit or renew any certificate of deposit in violation of subsection 5 of section 524.805, any officer or employee knowing of such insolvency who willfully receives, accepts or renews or is accessory to or otherwise knowingly permits such acceptance shall, ~~upon conviction thereof, be subject to imprisonment in the penitentiary for a period not exceeding ten years or a fine not exceeding ten thousand dollars, or both, or subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both,~~ be guilty of a fraudulent practice and shall, in either event be forever disqualified from acting as an officer or employee of any state bank.

Sec. 446. Section five hundred twenty-four point one thousand six hundred nine (524.1609), Code 1975, is amended to read as follows:

524.1609 FALSE STATEMENTS CONCERNING STATE BANKS. Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false statement concerning any state bank which imputes, or tends to impute, insolvency, unsound financial condition or financial embarrassment, or which may tend to cause or provoke, or aid in causing or provoking, a general withdrawal of deposits from such state bank, or which may otherwise injure or tend to injure the business or good will of such state bank, shall be guilty

of a ~~misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~ simple misdemeanor.

Sec. 447. Section five hundred twenty-four point one thousand six hundred ten (524.1610), Code 1975, is amended to read as follows:

524.1610 VIOLATION OF PROHIBITION AGAINST RECEIVING A COMMISSION FOR ORGANIZING A STATE BANK. Any person violating the provisions of section 524.311 shall be guilty of a simple misdemeanor ~~and shall upon conviction thereof be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both, plus an additional fine equal to twice the amount of such commission or bonus.~~

Sec. 448. Section five hundred twenty-four point one thousand six hundred eleven (524.1611), Code 1975, is amended to read as follows:

524.1611 OFFENSES INVOLVING EMPLOYEES OF DEPARTMENT OF BANKING.

1. Any person violating the provisions of subsection 1 of section 524.211 shall be guilty of a ~~misdemeanor and shall, upon conviction thereof, be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~ fraudulent practice, and shall be subject to a further fine of a sum equal to the amount of the value of the property given or received or the money so loaned or borrowed. The deputy superintendent, an assistant or examiner convicted of a violation of such subsection shall be immediately discharged from employment and shall be forever disqualified from holding any position in the department of banking.

2. Any examiner violating the provision of section 524.212 shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~. Any examiner convicted

of a violation of section 524.212 shall be immediately discharged from employment and shall be forever disqualified from holding any position in the department of banking.

Sec. 449. Section five hundred twenty-four point one thousand eight hundred seven (524.1807), Code 1975, is amended to read as follows:

524.1807 PENALTIES. Any bank holding company which willfully violates any provision of sections 524.1801 to 524.1806 shall, upon conviction, be fined not less than one hundred dollars nor more than one thousand dollars for each day during which the violation continues. Any individual who willfully participates in a violation of any provisions of sections 524.1801 to 524.1806 shall be guilty of a serious misdemeanor ~~and, upon conviction thereof, shall be subject to imprisonment in the county jail for a period not exceeding one year or a fine not exceeding one thousand dollars, or both~~.

Sec. 450. Section five hundred thirty-three point three (533.3), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Any person, firm, corporation, copartnership, or association, upon conviction of the violation of the provisions of this section shall be ~~fined not more than five hundred dollars or imprisoned not more than one year or both~~ guilty of a serious misdemeanor; and may be enjoined from such continued use of said words, advertising or other representation.

Sec. 451. Section five hundred thirty-three point thirty-one (533.31), Code 1975, is amended to read as follows:

533.31 PENALTY FOR FALSIFICATION. Any director, officer, agent, employee, or clerk of any credit union who shall knowingly subscribe or make any false statements or false entries in the books thereof, or knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine its condition, or shall knowingly subscribe and make false reports, or shall knowingly divert the funds of the credit union to other objects than those authorized by law, shall be ~~punished by imprisonment in the penitentiary not more than five years, or in the county jail not more than one year, or by fine of not more than one thousand dollars or by both such fine and imprisonment~~ guilty of a fraudulent practice and be forever after barred from holding any office created by this chapter.

Sec. 452. Section five hundred thirty-three A point thirteen (533A.13), Code 1975, is amended to read as follows:

533A.13 LICENSE MANDATORY TO BUSINESS. It shall be unlawful for an individual, partnership, unincorporated association, agency or corporation to engage in the business of debt management without first obtaining a license as required by this chapter. Any individual, partnership, unincorporated association, agency, corporation or any other group of individuals, however organized, or any owner, partner, member, officer, director, employee, agent or representative thereof who shall willfully or knowingly engage in the business of debt management without the license required by this chapter, shall be guilty of a serious misdemeanor ~~and upon conviction thereof shall be fined not more than one thousand dollars for each violation or imprisoned in the county jail for not more than six months, or by both such fine and imprisonment~~.

Sec. 453. Section five hundred thirty-three B point five (533B.5), Code 1975, is amended to read as follows:

533B.5 PENALTY. Any person violating any provision of this chapter shall be guilty of a serious misdemeanor ~~and shall be fined not more than one thousand dollars~~. Each transaction in violation of this chapter and each day that a violation continues shall be a separate offense.

Sec. 454. Section five hundred thirty-four point thirteen (534.13), Code 1975, is amended to read as follows:

534.13 DEFAMATION OF INSTITUTIONS PROHIBITED--MALICIOUS CIRCULATION OF REPORTS. Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false report concerning any building and loan or savings and loan association which imputes or tends to impute, insolvency or unsound financial condition or financial embarrassment, or which may tend to cause or provoke or aid

in causing or provoking a general withdrawal of funds from such association, or which may otherwise injure or tend to injure the business or good will of such building and loan or savings and loan association, shall be guilty of a ~~felony and shall be fined not more than five thousand dollars or be imprisoned for not more than five years in the penitentiary or be punished by both such fine and imprisonment~~ serious misdemeanor.

Sec. 455. Section five hundred thirty-four point fifty-seven (534.57), Code 1975, is amended to read as follows:

534.57 SALE OF STOCK IF UNAUTHORIZED FOREIGN COMPANY. It shall be unlawful for an agent, solicitor or other person to sell stock or solicit share accounts or solicit persons to subscribe for same in any association named in section 534.50 which has not been authorized to do business in this state, and any person convicted of so doing shall be ~~punished by a fine of not less than fifty nor more than two hundred dollars and shall be committed to the county jail until the fine and costs are paid~~ guilty of a serious misdemeanor.

Sec. 456. Section five hundred thirty-four point sixty-four (534.64), Code 1975, is amended to read as follows:

534.64 CRIMINAL OFFENSES. If any officer, director, or agent of any building and loan or savings and loan association shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, he or she shall be guilty of perjury. If any director of any such association shall vote to declare a dividend greater than has been earned; or if any officer or director or any agent or employee of any such association shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person in the name of such association without being authorized to do so by the board of directors in pursuance of its lawful power, he or she shall be guilty

of a fraudulent practice; or if any such officer, director, agent, or employee shall embezzle or convert to his or her own use, or shall use or pledge for his or her own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, he or she shall be guilty of theft; or if he or she shall knowingly do or attempt to do business for such association that has not procured and does not hold the certificate of authority therefor as in this chapter provided, he or she shall be guilty of a serious misdemeanor; or if he or she shall knowingly make or cause to be made any false entries in the books of the association, or shall, with the intent to deceive any person making an examination in this chapter required to be made, exhibit to the person making the examination any false entry, paper, or statement, the person shall be guilty of a fraudulent practice; or if he or she shall knowingly do or solicit business for any building and loan or savings and loan association which has not procured the required certificate therefor, he or she shall be ~~fined in any sum not exceeding ten thousand dollars, or imprisoned in the penitentiary not exceeding ten years, or punished by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 457. Section five hundred thirty-four point sixty-six (534.66), subsection twelve (12), Code 1975, is amended to read as follows:

12. CRIMINAL OFFENSES. If any officer or agent of any such building and loan association, or any person conducting the business thereof, shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, he or she shall be guilty of perjury and punished accordingly. And if any officer, agent or employee of any such association, or any person transacting the business thereof, shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand,

collect, or receive any money from any member or other person in the name of such association without being authorized so to do, he or she shall be guilty of a fraudulent practice; or if any such officer, agent, or employee of such association, or any person transacting the business thereof, shall embezzle, convert to his or her own use, or shall use or pledge for his or her own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, ~~or~~ he or she shall be guilty of theft; or if the person shall knowingly solicit, transact, or attempt to transact any business for any such association which has not procured and does not hold the certificate of authority from the auditor of state to transact business in this state as provided herein, he or she shall be guilty of a serious misdemeanor; or if he or she shall knowingly make, or cause to be made, any false entries in the books of the association, or shall, with intent to deceive any person making an examination of such association, as herein provided, exhibit to the person making the examination any false entry, paper, or statement, ~~he~~ the person shall be ~~fined-in-a-sum-not-exceeding-ten-thousand dollars-or-imprisoned-in-the-penitentiary-not-exceeding-ten years-or-punished-by-both-such-fine-and-imprisonment~~ guilty of a fraudulent practice.

Sec. 458. Section five hundred thirty-five point six (535.6), Code 1975, is amended to read as follows:

535.6 INTEREST IN EXCESS OF TWO PERCENT PER MONTH. Every person or persons, company, corporation, or firm, and every agent of any person, persons, company, corporation, or firm, who shall take or receive, or agree to take or receive, directly or indirectly, by means of commissions or brokerage charges, or otherwise, for the forbearance or use of money in the sum or amount of more than five hundred dollars a rate greater than two percent per month, shall be deemed guilty of a serious misdemeanor~~,-and,-on-conviction-thereof,-shall be-punished-by-a-fine-of-not-less-than-twenty-five-dollars, nor-more-than-five-hundred-dollars,-or-by-imprisonment-in the-county-jail-for-a-period-of-not-less-than-thirty-days~~

~~nor-more-than-ninety-days~~. Nothing herein contained shall be construed as authorizing a higher rate of interest than is now provided by law. Provided, however, this section shall not apply to lawful loans under chapter 536.

Sec. 459. Section five hundred thirty-six point nineteen (536.19), Code 1975, is amended to read as follows:

536.19 VIOLATIONS. Any person, copartnership, association, or corporation and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any of the provisions of sections 536.1, 536.12, 536.13 or 536.14, which are not also violations of article 5, part 3, of the Iowa consumer credit code, shall be guilty of a serious misdemeanor~~,-and-upon conviction-thereof,-shall-be-punishable-by-a-fine-of-not-more than-five-hundred-dollars-or-by-imprisonment-of-not-more-than six-months,-or-by-both-such-fine-and-imprisonment,-in-the discretion-of-the-court~~. Violations of the Iowa consumer credit code shall be subject to the penalties provided therein.

Sec. 460. Section five hundred thirty-six A point twenty-seven (536A.27), Code 1975, is amended to read as follows:

536A.27 PENALTY. If any officer, director or agent of any corporation engaged in the business of operating an industrial loan company shall violate any of the provisions of this chapter which are not also violations of the Iowa consumer credit code; or if any person individually or as a partner, or officer, director or agent of any corporation shall engage in the business of operating an industrial loan company without obtaining the license required by section 536A.3, when that person is not required by section 537.2301 to have a license, he or she shall be guilty of a serious misdemeanor ~~and-upon-conviction-thereof-shall-be-punishable by-a-fine-of-not-more-than-five-hundred-dollars-or-by imprisonment-in-the-county-jail-for-not-more-than-six-months, or-by-both-such-fine-and-imprisonment~~. Violation of the Iowa consumer credit code shall be subject to the penalties provided therein.

Sec. 461. Section five hundred thirty-seven point five

thousand three hundred one (537.5301), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. A person who willfully and knowingly makes charges in excess of those permitted by the provisions of article 2, part 4, applying to supervised loans, is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding one thousand dollars, or to imprisonment not exceeding one year, or both~~.

2. A person who, in violation of the provisions of this Act applying to authority to make supervised loans under section 537.2301, willfully and knowingly engages without a license in the business of making supervised loans, or of taking assignments of and undertaking direct collection of payments from and enforcement of rights against consumers arising from supervised loans, is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding one thousand dollars, or to imprisonment not exceeding one year, or both~~.

Sec. 462. Section five hundred thirty-seven point five thousand three hundred two (537.5302), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

A person is guilty of a serious misdemeanor ~~and upon conviction may be sentenced to pay a fine not exceeding five thousand dollars, or to imprisonment not exceeding one year, or both~~, if ~~he~~ the person willfully and knowingly does any of the following:

Sec. 463. Section five hundred forty-two point eleven (542.11), Code 1975, is amended to read as follows:

542.11 PENALTIES--MISDEMEANOR. Any person who engages in business as a grain dealer without obtaining a license or any person in violation of any other provision of this chapter, or any grain dealer who refuses to permit inspection of his or her premises, books, accounts or records as provided in this chapter, shall be guilty of a simple misdemeanor ~~and, upon conviction, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both~~

~~such fine and imprisonment for each offense~~. Each day that any violation continues shall constitute a separate offense. Any person violating the provisions of this chapter may be restrained by an injunction.

Sec. 464. Section five hundred forty-three point thirty-six (543.36), Code 1975, is amended to read as follows:

543.36 PENALTIES--MISDEMEANOR. Every person who violates or fails to comply with any of the provisions of this chapter or to comply with any lawfully authorized order, direction, demand, or rule or regulation of the commission shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days or by both such fine and imprisonment~~.

Sec. 465. Section five hundred forty-six A point nine (546A.9), Code 1975, is amended to read as follows:

546A.9 PENALTIES. Any person who shall offer new merchandise for sale at public auction without first securing a license as herein provided, or who shall offer for sale new merchandise different from that shown by, or in excess of the amount and value of, the inventories filed with the application for license, shall be guilty of a serious misdemeanor ~~and may be punished by a fine not to exceed three hundred dollars or by imprisonment in the county jail not to exceed ninety days~~.

Sec. 466. Section five hundred forty-seven point four (547.4), Code 1975, is amended to read as follows:

547.4 PENALTY. Any person violating the provisions of this chapter shall, ~~upon conviction,~~ be ~~punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a term not exceeding thirty days~~ guilty of a simple misdemeanor.

Sec. 467. Section five hundred fifty-one point four (551.4), Code 1975, is amended to read as follows:

551.4 PENALTY. Any person, firm, company, association, or corporation violating any of the provisions of sections 551.1 and 551.2, and any officer, agent, or receiver of any

firm, company, association, or corporation, or any member of the same, or any individual~~,-found-guilty-of-a-violation thereof,~~ violating any of such provisions shall be ~~fined-not less-than-five-hundred-dollars-nor-more-than-five-thousand dollars,-or-be-imprisoned-in-the-county-jail-not-to-exceed one-year,-or-suffer-both-penalties~~ guilty of a serious misdemeanor.

Sec. 468. Section five hundred fifty-one A point three (551A.3), subsection one (1), Code 1975, is amended to read as follows:

1. It shall be unlawful for any wholesaler or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler or retailer, as the case may be, as defined in this chapter. Any wholesaler or retailer who violates the provisions of this section shall be guilty of a simple misdemeanor ~~and-be-punishable-by-fine-of not-less-than-one-hundred-dollars,-nor-more-than-five-hundred-dollars~~.

Sec. 469. Section five hundred fifty-two point two (552.2), Code 1975, is amended to read as follows:

552.2 UNLAWFUL ACTS. It shall be a public offense for any corporation, association, copartnership, person or persons, or agent to conduct, keep, maintain or cause to be conducted, kept or maintained, within this state, any bucket shop. Any corporation, person or persons, or agent whether acting individually or as a member, or as an officer, agent, or employee of any corporation, association, or copartnership, who shall conduct, keep, maintain, or assist in the conducting, keeping or maintaining of any bucket shop within this state shall~~,-upon-conviction-thereof,~~ be ~~fined-in-a-sum-not-to exceed-one-thousand-dollars-or-be-imprisoned-in-the penitentiary-not-exceeding-two-years~~ guilty of a fraudulent practice.

Sec. 470. Section five hundred fifty-three point three (553.3), Code 1975, is amended to read as follows:

553.3 PENALTY. Any corporation, company, firm, or association violating any of the provisions of sections 553.1

and 553.2 shall be ~~fined-not-less-than-five-hundred-nor-more than-five-thousand-dollars~~ guilty of an aggravated misdemeanor, and any president, manager, director, officer, agent, or receiver of any corporation, company, firm, or association, or any member of any corporation, company, firm, or association, or any individual, found guilty of a violation thereof, shall be ~~fined-not-less-than-five-hundred-nor-more-than-five thousand-dollars,-or-be-imprisoned-in-the-county-jail-not to-exceed-one-year,-or-both~~ punished accordingly.

Sec. 471. Section five hundred fifty-three point thirteen (553.13), Code 1975, is amended to read as follows:

553.13 VIOLATION--PENALTY. Any person, partnership, company, association, or corporation subject to the provisions of sections 553.10 to 553.12, inclusive, or any person, trust, combination, pool, or association, or any director, officer, lessee, receiver, trustee, employee, clerk, agent, or any person acting for or employed by them, who shall violate any of the provisions of section 553.10, or who shall aid and abet in such violation, shall be deemed guilty of ~~a~~ an aggravated misdemeanor~~,-and-shall-upon-conviction-thereof-be-fined-any-sum-not-less-than-five-hundred-dollars-and not-exceeding-two-thousand-dollars-or-imprisoned-in-the-county jail-for-a-period-not-exceeding-six-months,-or-both,-at-the discretion-of-the-court~~.

Sec. 472. Section five hundred fifty-three point seventeen (553.17), Code 1975, is amended to read as follows:

553.17 VIOLATION. Any person who engages in a gift enterprise such as is defined in section 553.16 or who advertises the same in any manner or who in furtherance of such scheme, as an inducement to purchasers, issues in connection with the sale of any merchandise or other property any such ticket or stamp purporting to be redeemable in some indefinite article not described thereon, only when presented with a collection of other stamps or tickets of like kind by some other party to such scheme, and which unless presented in the manner aforesaid is not redeemable at all, shall each and all be guilty of a simple misdemeanor.

Sec. 473. Section five hundred fifty-three point twenty-one (553.21), Code 1975, is amended to read as follows:

553.21 VIOLATION--PENALTY. Any person, partnership, company, association, or corporation subject to the provisions of sections 553.19 and 553.20, or any person, trust, combination, pool, or association, or any director, officer, lessee, receiver, trustee, employee, clerk, agent, or any person acting for or employed by them or either of them, who shall violate any of the provisions of section 553.19, or who shall aid and abet in such violation, shall be deemed guilty of ~~a~~ an aggravated misdemeanor~~, and shall upon conviction thereof be fined any sum not less than five hundred dollars and not exceeding two thousand dollars, or imprisoned in the county jail for a period not exceeding six months, or both, at the discretion of the court~~.

Sec. 474. Section five hundred fifty-six point twenty-five (556.25), Code 1975, is amended to read as follows:

556.25 PENALTIES.

1. Any person who willfully fails to render any report or perform other duties required under this chapter, shall be ~~punished by a fine of twenty-five dollars for each day such report is withheld, but not more than five hundred dollars~~ guilty of a simple misdemeanor.

2. Any person who willfully refuses to pay or deliver abandoned property to the treasurer of state as required under this chapter shall be ~~punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or imprisonment for not more than six months, or both, in the discretion of the court~~ guilty of a serious misdemeanor.

Sec. 475. Section five hundred fifty-eight point forty (558.40), Code 1975, is amended to read as follows:

558.40 LIABILITY OF OFFICER. Any officer, who knowingly misstates a material fact in either of the certificates mentioned in this chapter, shall be liable for all damages caused thereby, and shall be guilty of a serious misdemeanor~~, and fined any sum not exceeding the value of the property conveyed or otherwise affected by the instrument on which~~

~~such certificate is endorsed~~.

Sec. 476. Section five hundred sixty-six A point nine (566A.9), Code 1975, is amended to read as follows:

566A.9 PENALTY. Any person, firm or corporation violating any of the provisions of this chapter, shall~~, upon conviction,~~ be ~~punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars~~ guilty of a simple misdemeanor.

Sec. 477. Section five hundred seventy point nine (570.9), Code 1975, is amended to read as follows:

570.9 SALE OF CROPS HELD BY LANDLORD'S LIEN. If any tenant of farm lands, with intent to defraud, shall sell, conceal, or in any manner dispose of any of the grain, or other annual products thereof upon which there is a landlord's lien for unpaid rent, without the written consent of the landlord, ~~he~~ the tenant shall be guilty of ~~larceny and punished accordingly~~ theft.

Sec. 478. Section five hundred eighty point three (580.3), Code 1975, is amended to read as follows:

580.3 SALE OR REMOVAL PROHIBITED--PENALTY. It shall be unlawful to sell, exchange, or remove permanently from the county any animal subject to the lien herein provided for, without the written consent of the holder of such lien, and any person violating this provision, shall~~, on conviction~~ be ~~punished by a fine of not less than twenty-five dollars nor more than fifty dollars~~ guilty of a simple misdemeanor.

Sec. 479. Section five hundred ninety-five point nine (595.9), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred forty-four (244), section three (3), is amended to read as follows:

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 ~~and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days~~.

Sec. 480. Section five hundred ninety-six point six (596.6), Code 1975, is amended to read as follows:

596.6 PENALTY. Any clerk of the district court who shall unlawfully issue a license to marry to any person who fails to present and file the certificate as required in this chapter, and any person or persons who shall disclose or falsify any matter relating or pertaining to the examination of or certificate about any applicant for license to marry or clinical and laboratory tests taken by any party to a proposed marriage, except as may be required by law, and any person who shall obtain a license to marry contrary to the provisions of this chapter, shall be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days~~.

Sec. 481. Section five hundred ninety-eight point twenty-three (598.23), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

Any employer who dismisses an employee due to the entry of an assignment order commits a ~~public offense and upon conviction shall be fined not more than one hundred dollars~~ simple misdemeanor.

Sec. 482. Section five hundred ninety-eight point twenty-six (598.26), Code 1975, is amended to read as follows:

598.26 RECORD--IMPOUNDING--VIOLATION INDICTABLE. The record and evidence in all cases where a marriage dissolution is sought shall be closed to all but the court and its officers, and access thereto shall be refused until a decree of dissolution has been entered. 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. No officer or other person shall permit a copy of any of the testimony, or pleading, or the substance thereof, to be made available to any person other than a party or attorney to the action. Nothing in this section shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure. Violation of the provisions of this section shall be a ~~public offense, punishable by a fine of not~~

~~more than one hundred dollars, or imprisonment in the county jail not more than thirty days, or by both such fine and imprisonment~~ serious misdemeanor.

Sec. 483. Section five hundred ninety-eight point twenty-seven (598.27), Code 1975, is amended to read as follows:

598.27 REMARRIAGE. In every case in which a marriage dissolution is decreed, neither party shall marry again within a year from the date of the filing of said decree unless permission to do so is granted by the court. Nothing herein contained shall prevent the persons whose marriage has been dissolved from remarrying each other. Any person marrying contrary to the provisions of this section shall be deemed guilty of a simple misdemeanor ~~and upon conviction shall be punished accordingly~~.

Sec. 484. Section six hundred point ten (600.10), Code 1975, is amended to read as follows:

600.10 DISCLOSURE--PENAL PROVISIONS. Every person, excepting adopting parents or adopted child, who discloses any information contained in any adoption papers or proceedings except as may be authorized by order of court and every person who violates any of the provisions of this chapter or who intentionally shall make any false statements with reference to the matters contained herein, shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished accordingly~~.

Sec. 485. Section six hundred one D point seven (601D.7), Code 1975, is amended to read as follows:

601D.7 PENALTY FOR DENYING RIGHTS. Any person, firm, or corporation, or the agent of any person, firm, or corporation, who denies or interferes with the rights of any person under this chapter shall be guilty of a simple misdemeanor ~~and upon conviction shall be punished by a fine of not more than two hundred dollars~~.

Sec. 486. Section six hundred one E point five (601E.5), Code 1975, is amended to read as follows:

601E.5 PENALTY. Any person who is not qualified as a handicapped or paraplegic person and uses a distress flag

as provided in this chapter or for any other purpose is guilty of a simple misdemeanor ~~and punishable by a fine of not more than one hundred dollars or thirty days in jail~~.

Sec. 487. Section six hundred one G point twenty-two (601G.22), Code 1975, is amended to read as follows:

601G.22 PENALTIES. A person who willfully obstructs or hinders the lawful actions of the citizens' aide or ~~his~~ the citizens' aide's staff, or who willfully misleads or attempts to mislead the citizens' aide in his or her inquires, shall be ~~subject to a fine of not more than one thousand dollars~~ guilty of a simple misdemeanor.

Sec. 488. Section six hundred two point sixty (602.60), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Judicial magistrates shall have jurisdiction of ~~nonindictable~~ simple misdemeanors, including traffic and ordinance violations, preliminary hearings, search warrant proceedings, and small claims. They shall also have jurisdiction to exercise the powers specified in sections ~~748.2~~ 644.2 and 644.12 and the power to hear complaints, or preliminary informations, issue warrants, order arrests, make commitments and take bail. They shall have power to act any place within the district as directed, and venue shall be the same as in other district court proceedings. In addition, judicial magistrates appointed pursuant to section 602.51 shall have jurisdiction of indictable misdemeanors, the jurisdiction provided for in section 231.3 when designated a judge of the juvenile court, and jurisdiction in civil actions for money judgments where the amount in controversy does not exceed three thousand dollars and while exercising that jurisdiction, judicial magistrates shall employ district judges' practice and procedure.

Sec. 489. Section six hundred two point sixty-two (602.62), Code 1975, is amended to read as follows:

602.62 PROCEDURE. The criminal procedure before judicial magistrates shall be as provided in ~~chapters 751, 754 to 763, 765, 766, and 768~~ chapter one (1), divisions four (IV), six (VI), eight (VIII), eleven (XI) of this Act, rules two (2) and thirty-two (32) through forty-six (46), rules of criminal procedure, and chapter seven hundred fifty-nine (759) of the Code. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 490. Section six hundred seven point two (607.2), subsection two (2), Code 1975, is amended to read as follows:

2. Practicing attorneys~~, physicians, licensed embalmers, registered nurses, chiropractors, osteopaths, veterinarians, registered pharmacists, dentists, and clergymen, including Christian Science practitioners and readers~~.

Sec. 491. Section six hundred seven point two (607.2), Code 1975, is amended by striking subsections three (3), four (4), five (5), and six (6).

Sec. 492. Section six hundred seven point four (607.4), Code 1975, is amended to read as follows:

607.4 FALSE EXCUSE--PROHIBITED REQUESTS. Any person who knowingly makes any false affidavit, statement, or claim, for the purpose of relieving himself or another from serving as a juror, or any person who requests the judges of election to return ~~his~~ the person's name as such juror, shall be ~~punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not more than thirty days, or the court may punish such person as for contempt~~ guilty of a fraudulent practice.

Sec. 493. Section six hundred nine point twenty-six (609.26), Code 1975, is amended to read as follows:

609.26 MAXIMUM SERVICE PERMITTED. ~~No~~ Except as provided in rule three (3), subsection three (3), paragraph a of the rules of criminal procedure, no person on the list of grand jurors shall be eligible to serve as a grand juror except for one calendar year of the biennial period for which the list is made.

Sec. 494. Section six hundred ten point twenty-one (610.21), Code 1975, is amended to read as follows:

610.21 UNLAWFUL RETENTION OF MONEY. An attorney who receives the money or property of his or her client in the

course of his or her professional business, and refuses to pay or deliver it in a reasonable time, after demand, is guilty of a ~~misdemeanor~~ theft and punished accordingly.

Sec. 495. Section six hundred ten point forty-nine (610.49), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

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 ~~public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days~~ simple misdemeanor.

Sec. 496. Section six hundred seventeen point two (617.2), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

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 ~~may be fined by the court not exceeding ten dollars~~ shall be guilty of a simple misdemeanor, and he or she 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.

Sec. 497. Section six hundred eighteen point two (618.2), Code 1975, is amended to read as follows:

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 ~~him~~ the public official by law of any notice, report of proceedings or other matter whatsoever, shall be guilty of a simple misdemeanor ~~and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days~~.

Sec. 498. Section six hundred twenty-two A point three (622A.3), subsection two (2), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

In civil cases, every court shall tax the cost of an interpreter the same as other court costs. In criminal cases, where the defendant is indigent, the interpreter shall be considered as a defendant's witness under ~~chapter 781~~ rule fourteen (14), rules of criminal procedure for the purpose of receiving fees, except that subpoenas shall not be required. If the proceeding is before an administrative agency, that agency shall provide such interpreter but may require that a party to the proceeding pay the expense thereof.

Sec. 499. Section six hundred twenty-four point fourteen (624.14), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

624.14 JUROR AS WITNESS--GROUNDS TO SET ASIDE VERDICT. If a juror has personal knowledge respecting a fact in controversy in a cause, ~~he~~ the juror must declare the same in open court during the trial, and if, during the retirement of the jury, a juror declares any fact which could be evidence in the cause, as of ~~his~~ the juror's own knowledge, the jury must return into court, and the juror must be sworn as a witness and examined in the presence of the parties, if ~~his~~ the juror's evidence be admissible; and in support of a motion to set aside a verdict, proof of such declaration may be made by any juror.

Sec. 500. Section six hundred twenty-seven point seventeen (627.17), Code 1975, is amended to read as follows:

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 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~~, and punished by a fine of not less than ten nor more than fifty dollars~~.

Sec. 501. Section six hundred fifty-seven point three (657.3), Code 1975, is amended to read as follows:

657.3 PENALTY--ABATEMENT. Whoever is convicted of erecting, causing, or continuing a public or common nuisance as provided in this chapter, or at common law when the same has not been modified or repealed by statute, where no other punishment therefor is specially provided, shall be ~~fined not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding one year,~~ guilty of an aggravated misdemeanor and the court, ~~with or without such fine,~~ may order such nuisance abated, and issue a warrant as hereinafter provided.

Sec. 502. Section six hundred sixty point eleven (660.11), Code 1975, is amended to read as follows:

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 ~~fined in any sum not exceeding five thousand dollars, and imprisoned in the county jail until he complies therewith~~ shall be punished accordingly, and shall be further liable for the damages resulting to any person on account of his disobedience.

Sec. 503. Section six hundred sixty-three point twenty (663.20), Code 1975, is amended to read as follows:

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 ~~him~~ the plaintiff, ~~he~~ the defendant shall~~, on conviction, be imprisoned in the penitentiary or county jail not more than one year, and fined not exceeding one thousand dollars~~ be guilty of a serious misdemeanor, and any person knowingly aiding or abetting in any such act shall be subject to like punishment.

Sec. 504. Section six hundred sixty-six point six (666.6), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

Such report must be full, true, and complete with reference to the matters therein contained, and of all things required by this section to be reported, and be under oath, and any officer failing to make such report shall be guilty of a simple misdemeanor.

Sec. 505. Section seven hundred thirteen B point six (713B.6), Code 1975, is amended to read as follows:

713B.6 PENALTY. Any seller who violates the provisions of this chapter shall be guilty of a simple misdemeanor.

Sec. 506. Section seven hundred twenty-six point four (726.4), Code 1975, is amended to read as follows:

726.4 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 751~~ division nine (IX) of chapter two (2) of this Act.

Sec. 507. Section seven hundred forty point eighteen (740.18), Code 1975, is amended to read as follows:

740.18 PENALTY. Any person who violates any provision of sections 740.13 to 740.17, inclusive, shall be guilty of a serious misdemeanor ~~and shall be punished accordingly~~.

Sec. 508. Section seven hundred forty-nine B point seven (749B.7), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. Any 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 to any agency or person except in accordance with this chapter, or any person connected with any 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 ~~punished by a fine of not more than one thousand dollars or~~

~~by-imprisonment-in-the-state-penitentiary-for-not-more-than two-years,-or-by-both-fine-and-imprisonment~~ guilty of an aggravated misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate criminal history data except in accordance with this chapter shall ~~for-each-such-offense-be-fined-not-more-than-one-hundred dollars-or-be-imprisoned-not-more-than-ten-days~~ be guilty of a simple 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 ~~punished-by-a-fine of-not-more-than-five-thousand-dollars-or-by-imprisonment in-the-state-penitentiary-for-not-more-than-three-years,-or by-both-fine-and-imprisonment~~ 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 ~~fined-not-more-than-five-hundred-dollars-or-be-imprisoned not-more-than-six-months,-or-both~~ guilty of a serious misdemeanor.

Sec. 509. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter ninety-nine (99), section twenty-three (23), is amended to read as follows:

SEC. 23. Chapter seven hundred twenty-six (726), Code 1975, is amended by adding the following new section:

NEW SECTION. PENALTY. A person who commits an offense declared in this chapter or chapter ninety-nine B (99B) of the Code to be a misdemeanor shall be ~~subject-to-imprisonment-in-the-county-jail-for-a-period-not-exceeding-one-year, or-to-a-fine-not-exceeding-one-thousand-dollars,-or-to-both fine-and-imprisonment~~ guilty of a serious misdemeanor.

Sec. 510. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter ninety-nine (99), section twenty-four (24), is amended to read as follows:

SEC. 24. Chapter seven hundred twenty-six (726), Code

1975, is amended by adding the following new sections:

NEW SECTION. 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 ninety-nine B (99B) of the Code commits ~~a-felony-punishable-by-a-fine-not-to-exceed-five thousand-dollars-or-by-imprisonment-for-a-term-not-to-exceed two-years,-or-by-both-fine-and-imprisonment~~ an aggravated misdemeanor.

NEW SECTION. COLLECTION SERVICE PROHIBITED. Any person who knowingly offers, gives or sells his or her services for use in collecting or enforcing any debt arising from gambling, whether or not lawful gambling, commits ~~a-felony,-punishable by-a-fine-not-to-exceed-five-thousand-dollars-or-by imprisonment-for-a-term-not-to-exceed-two-years,-or-by-both fine-and-imprisonment~~ an aggravated misdemeanor.

Sec. 511. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred (100), section one (1), unnumbered paragraph three (3), is amended to read as follows:

Any person violating the provisions of this Act is guilty of a simple misdemeanor ~~and-shall,-upon-conviction,-be-subject to-a-fine-not-to-exceed-one-hundred-dollars-or-by-imprisonment-in-the-county-jail-for-not-more-than-thirty-days,-or be-subject-to-both-such-fine-and-imprisonment~~.

Sec. 512. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirteen (113), section four (4), is amended to read as follows:

SEC. 4. Chapter one hundred ten B (110B), Code 1975, is amended by adding the following new section:

NEW SECTION. PENALTY. Any person violating any of the provisions of this chapter shall be guilty of a serious misdemeanor ~~and,-upon-conviction,-shall-be-fined-not-less-than ten-dollars-nor-more-than-one-hundred-dollars-or-imprisoned in-the-county-jail-for-not-more-than-thirty-days~~.

Sec. 513. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-two (132), section six (6), is amended to read as follows:

SEC. 6. NEW SECTION. OFFENSES AND PENALTIES.

1. A person who is convicted of violating section two (2) of this Act ~~may be sentenced to a fine not to exceed one hundred dollars, or to imprisonment in the county jail for a period not to exceed thirty days, or both the fine and imprisonment~~ is guilty of a simple misdemeanor.

2. A person who makes or utters a transportation certificate with knowledge that some or all of the information contained in the certificate is false, or a person who alters, forges, or counterfeits a transportation certificate, or the receipt prescribed in section four (4) of this Act, ~~commits a public offense and upon conviction may be sentenced to a term in the state penitentiary not to exceed ten years, to a fine not to exceed five thousand dollars, or to both the fine and imprisonment~~ is guilty of a class C felony.

Sec. 514. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred forty-four (144), section ten (10), unnumbered paragraph one (1), is amended to read as follows:

A person who establishes, conducts, manages, or operates a center without a license shall be guilty of a serious misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, shall be considered a separate offense.

Sec. 515. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter two hundred fifty (250), section two (2), subsection four (4), is amended to read as follows:

4. A person who violates the provisions of this section is guilty of a serious misdemeanor.

Sec. 516. Section seven hundred fifty-three point thirteen (753.13), Code 1975, and the division title immediately preceeding that section are amended to read as follows:

~~TRAFFIC~~ SCHEDULED VIOLATIONS

753.13 UNIFORM CITATION AND COMPLAINT.

1. The commissioner of public safety and the state conservation director, acting jointly, shall adopt a uniform, combined ~~traffic~~ citation and complaint, which shall be used for charging all traffic violations in Iowa under state law or municipal ordinance, unless the defendant is charged by information or unless section 321.236, subsection 1, is applicable, and which shall be used for charging all other violations of state law which are designated by section seven hundred fifty-three point fifteen (753.15) of the Code to be scheduled violations. Each citation and complaint shall be serially numbered and shall be in ~~quadruplicate~~ quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, ~~a copy~~ two copies to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward the copy of the citation and complaint in accordance with section 321.207, when applicable. The citation and complaint shall contain, among other things, spaces for the parties' names and for the information required by ~~section~~ sections 321.485, subsection 2 of the Code and five hundred two (502) of chapter two (2) of this Act; a place where the defendant may sign the promise to appear referred to in ~~section~~ sections 321.486 and five hundred three (503) of chapter two (2) of this Act; a list of the ~~minimum~~ scheduled fines prescribed by section 753.15, either separately or by groups; a brief explanation of sections 753.16 and 753.17; and a space where the defendant may sign an admission of the violation when such section 753.16 is applicable. Every citation and complaint shall require the defendant to appear before a court at a specified time and place. Notwithstanding section 321.485, subsection 2, the officer may arrest the defendant although a citation and complaint is used to charge the violation, if authorized by section ~~755.4~~ four hundred seven (407) of chapter two (2) of this Act.

2. Supplies of the uniform ~~traffic~~ citation and complaint for municipal corporations and county agencies shall be paid for out of the court expense fund of the county. Supplies

of the uniform ~~traffic~~ citation and complaint for all other agencies shall be paid for out of the budget of the agency concerned.

3. The uniform citation and complaint shall contain a place for the verification of the officer issuing the citation. The complaint may be verified before the chief officer of the law enforcement agency or his designee, and the chief officer of each law enforcement agency of the state is authorized to designate specific individuals to administer oaths and certify verifications. Nothing in this section shall be deemed to invalidate forms of uniform citation and complaint in existence prior to ~~July~~ January 1, ~~1974~~ 1978, and existing forms may be used until supplies are exhausted.

4. The commissioner of public safety and the state conservation director, acting jointly, shall design and publish a compendium of scheduled violations and scheduled fines and costs, 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 conservation commission, 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.

Sec. 517. Section seven hundred fifty-three point fourteen (753.14), Code 1975, is amended to read as follows:

753.14 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 ~~traffic violations~~ 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. Such boxes shall be used solely for

the deposit of fines and costs received upon written admissions of those scheduled violations ~~respecting weight and other nonmoving 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 his designee. The chief judge of the district may prescribe procedures for the system and may discontinue its use if necessary.

Sec. 518. Section seven hundred fifty-three point fifteen (753.15), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter sixty-seven (67), section fifty-six (56), is amended by striking the section and inserting in lieu thereof the following:

753.15 SCHEDULED VIOLATIONS.

1. Except as otherwise indicated, violations of sections of the Code specified in this section shall be scheduled violations, and the scheduled fine for each of those violations shall be as provided in this section, whether the violation is of state law or of county or city ordinance.

2. TRAFFIC VIOLATIONS.

a. For parking violations under sections three hundred twenty-one point two hundred thirty-six (321.236), three hundred twenty-one point two hundred thirty-nine (321.239), three hundred twenty-one point three hundred fifty-eight (321.358), three hundred twenty-one point three hundred sixty (321.360), and three hundred twenty-one point three hundred sixty-one (321.361) of the Code, the scheduled fine is five dollars: However, violations charged by a city upon simple notice of a fine instead of a uniform citation and complaint as permitted by paragraph a of subsection one (1) of section three hundred twenty-one point two hundred thirty-six (321.236) of the Code are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under sections one hundred eleven point thirty-eight (111.38) or three hundred twenty-one point three hundred sixty-two (321.362) of the Code the scheduled fine is ten dollars.

b. For registration violations under sections three hundred twenty-one point seventeen (321.17), three hundred twenty-one point thirty-two (321.32), three hundred twenty-one point thirty-four (321.34), three hundred twenty-one point thirty-seven (321.37), three hundred twenty-one point thirty-eight (321.38), three hundred twenty-one point forty-one (321.41), three hundred twenty-one point ninety-eight (321.98) and three hundred twenty-one point one hundred ninety (321.190) of the Code, the scheduled fine is five dollars. For violations of section three hundred twenty-one point one hundred ninety (321.190) of the Code, the case shall be dismissed without imposition of fine or costs if a license valid at the time of the issuance of the citation is presented by the defendant to the magistrate or scheduled violations office.

c. For improperly used or nonused, or defective or improper equipment, other than brakes, driving lights and brakelights, under sections three hundred twenty-one point three hundred seventeen (321.317), three hundred twenty-one point three hundred eighty-seven (321.387), three hundred twenty-one point three hundred eighty-eight (321.388), three hundred twenty-one point three hundred eighty-nine (321.389), three hundred twenty-one point three hundred ninety (321.390), three hundred twenty-one point three hundred ninety-one (321.391), three hundred twenty-one point three hundred ninety-two (321.392), three hundred twenty-one point three hundred ninety-nine (321.399), three hundred twenty-one point four hundred twenty-two (321.422), three hundred twenty-one point four hundred thirty-two (321.432), three hundred twenty-one point four hundred thirty-five (321.435), three hundred twenty-one point four hundred thirty-six (321.436), three hundred twenty-one point four hundred thirty-seven (321.437), three hundred twenty-one point four hundred thirty-eight (321.438), three hundred twenty-one point four hundred thirty-nine (321.439), three hundred twenty-one point four hundred forty (321.440), three hundred twenty-one point four hundred forty-one (321.441), three hundred twenty-one point four hundred forty-two (321.442), three hundred twenty-one point four hundred

forty-four (321.444), three hundred twenty-one point four hundred forty-five (321.445), and three hundred twenty-one point four hundred forty-seven (321.447) of the Code, the scheduled fine is ten dollars.

d. For improperly used or nonused or defective or improper equipment under sections three hundred twenty-one point three hundred eighty-three (321.383), three hundred twenty-one point three hundred eighty-four (321.384), three hundred twenty-one point three hundred eighty-five (321.385), three hundred twenty-one point three hundred eighty-six (321.386), three hundred twenty-one point three hundred ninety-eight (321.398), three hundred twenty-one point four hundred (321.400), three hundred twenty-one point four hundred two (321.402), three hundred twenty-one point four hundred three (321.403), three hundred twenty-one point four hundred four (321.404), three hundred twenty-one point four hundred nine (321.409), three hundred twenty-one point four hundred nineteen (321.419), three hundred twenty-one point four hundred twenty (321.420), three hundred twenty-one point four hundred twenty-three (321.423), three hundred twenty-one point four hundred thirty (321.430), three hundred twenty-one point four hundred thirty-three (321.433), three hundred twenty-one point four hundred forty-eight (321.448), three hundred twenty-one point four hundred forty-nine (321.449), and three hundred twenty-one point four hundred fifty (321.450) of the Code the scheduled fine is twenty dollars.

e. For violations of a restricted license under sections three hundred twenty-one point one hundred eighty (321.180), three hundred twenty-one point one hundred ninety-three (321.193), and three hundred twenty-one point one hundred ninety-four (321.194) of the Code the scheduled fine is twenty dollars.

f. For excessive speed violations when not more than ten miles per hour in excess of the limit under sections one hundred eleven point thirty-six (111.36), three hundred twenty-one point two hundred thirty-six (321.236), subsections five (5) and eleven (11), three hundred twenty-one point two hundred

eighty-five (321.285), three hundred twenty-one point two hundred eighty-six (321.286), and three hundred twenty-one point two hundred eighty-seven (321.287) of the Code, the scheduled fine is ten dollars.

Excessive speed in conjunction with a violation of section three hundred twenty-one point two hundred seventy-eight (321.278) of the Code is not a scheduled violation, whatever the amount of excess speed.

For excessive speed violations when in excess of ten but not more than twenty miles per hour in excess of the limit under those sections, the scheduled fine is thirty dollars. Excessive speed more than twenty miles per hour in excess of the limit is not a scheduled violation.

Excessive speed in whatever amount by a school bus is not a scheduled violation under any section listed in a subparagraph of this paragraph f.

g. For operating, passing, turning and standing violations under sections three hundred twenty-one point two hundred twenty-five (321.225), three hundred twenty-one point two hundred thirty-six (321.236), subsections three (3), four (4), nine (9) and twelve (12), three hundred twenty-one point two hundred seventy-five (321.275), three hundred twenty-one point two hundred ninety-five (321.295), three hundred twenty-one point two hundred ninety-seven (321.297), three hundred twenty-one point two hundred ninety-nine (321.299), three hundred twenty-one point three hundred three (321.303), three hundred twenty-one point three hundred four (321.304), subsections one (1) and two (2), three hundred twenty-one point three hundred five (321.305), three hundred twenty-one point three hundred six (321.306), three hundred twenty-one point three hundred eleven (321.311), three hundred twenty-one point three hundred twelve (321.312), three hundred twenty-one point three hundred fourteen (321.314), three hundred twenty-one point three hundred fifteen (321.315), three hundred twenty-one point three hundred sixteen (321.316), three hundred twenty-one point three hundred eighteen (321.318), three hundred twenty-one point three hundred twenty-three (321.323),

three hundred twenty-one point three hundred thirty-five (321.335), three hundred twenty-one point three hundred thirty-six (321.336), three hundred twenty-one point three hundred thirty-seven (321.337), three hundred twenty-one point three hundred thirty-eight (321.338), three hundred twenty-one point three hundred forty (321.340), three hundred twenty-one point three hundred forty-four (321.344), three hundred twenty-one point three hundred fifty-three (321.353), three hundred twenty-one point three hundred fifty-four (321.354), three hundred twenty-one point three hundred sixty-three (321.363), three hundred twenty-one point three hundred sixty-four (321.364), three hundred twenty-one point three hundred sixty-five (321.365), three hundred twenty-one point three hundred sixty-six (321.366), three hundred twenty-one point three hundred sixty-eight (321.368), three hundred twenty-one point three hundred eighty-two (321.382), and three hundred twenty-one point three hundred ninety-five (321.395) of the Code, the scheduled fine is fifteen dollars.

h. For violations involving failures to yield or to observe pedestrians and other vehicles under sections three hundred twenty-one point two hundred fifty-seven (321.257), subsections one (1) and four (4), three hundred twenty-one point two hundred eighty-eight (321.288), three hundred twenty-one point two hundred ninety-eight (321.298), three hundred twenty-one point three hundred (321.300), three hundred twenty-one point three hundred seven (321.307), three hundred twenty-one point three hundred eight (321.308), three hundred twenty-one point three hundred thirteen (321.313), three hundred twenty-one point three hundred nineteen (321.319), three hundred twenty-one point three hundred twenty (321.320), three hundred twenty-one point three hundred twenty-one (321.321), three hundred twenty-one point three hundred twenty-nine (321.329), three hundred twenty-one point three hundred thirty-three (321.333), three hundred twenty-one point three hundred thirty-nine (321.339), and three hundred twenty-one point three hundred sixty-seven (321.367) of the Code, the scheduled fine is twenty dollars.

i. For violations by pedestrians and bicyclists under sections three hundred twenty-one point two hundred thirty-six (321.236), subsection ten (10), three hundred twenty-one point three hundred twenty-five (321.325), three hundred twenty-one point three hundred twenty-six (321.326), three hundred twenty-one point three hundred twenty-eight (321.328), three hundred twenty-one point three hundred thirty-one (321.331), three hundred twenty-one point three hundred thirty-two (321.332), three hundred twenty-one point three hundred ninety-seven (321.397), and three hundred twenty-one point four hundred thirty-four (321.434) of the Code, the scheduled fine is ten dollars.

j. For violations by operators of school buses and emergency vehicles, and for violations by other motor vehicle operators when in vicinity, under sections three hundred twenty-one point two hundred thirty-one (321.231), three hundred twenty-one point three hundred twenty-four (321.324), three hundred twenty-one point three hundred seventy-two (321.372), and three hundred twenty-one point three hundred seventy-seven (321.377) of the Code, the scheduled fine is twenty-five dollars: However, excessive speed by a school bus in excess of ten miles over the limit is not a scheduled violation.

k. For violations of traffic signs and signals, and for failure to obey an officer under sections three hundred twenty-one point two hundred twenty-nine (321.229), three hundred twenty-one point two hundred thirty-six (321.236), subsections two (2), and six (6), three hundred twenty-one point two hundred fifty-seven (321.257), subsections two (2) and three (3), three hundred twenty-one point two hundred fifty-eight (321.258), three hundred twenty-one point two hundred ninety-four (321.294), three hundred twenty-one point three hundred four (321.304), subsection three (3), three hundred twenty-one point three hundred twenty-two (321.322), three hundred twenty-one point three hundred forty-one (321.341), three hundred twenty-one point three hundred forty-two (321.342), three hundred twenty-one point three hundred forty-three (321.343), and three hundred twenty-one point three hundred forty-five (321.345) of the Code, the scheduled fine is twenty dollars.

l. For height, weight and load violations and towed vehicle violations under sections three hundred twenty-one point three hundred nine (321.309), three hundred twenty-one point three hundred ten (321.310), three hundred twenty-one point three hundred eighty-one (321.381), three hundred twenty-one point three hundred ninety-four (321.394), three hundred twenty-one point four hundred thirty-seven (321.437), three hundred twenty-one point four hundred fifty-five (321.455), three hundred twenty-one point four hundred fifty-six (321.456), three hundred twenty-one point four hundred fifty-seven (321.457), three hundred twenty-one point four hundred fifty-eight (321.458), three hundred twenty-one point four hundred sixty-one (321.461), three hundred twenty-one point four hundred sixty-two (321.462), and three hundred twenty-one point four hundred seventy-four (321.474) of the Code, the scheduled fine is twenty-five dollars. For weight violations under sections three hundred twenty-one point four hundred fifty-nine (321.459) and three hundred twenty-one point four hundred sixty-six (321.466) of the Code the scheduled fine is twenty dollars for each two thousand pounds or fraction thereof of overweight.

m. For violation of display of identification required by section three hundred twenty-six point twenty-two (326.22) of the Code and violation of trip permits as prescribed by section three hundred twenty-six point twenty-three (326.23) of the Code, the scheduled fine is twenty dollars.

n. For violation of intrastate hauling on foreign registration under sections three hundred twenty-one point fifty-four (321.54) and three hundred twenty-one point fifty-five (321.55) of the Code; use of registration under section three hundred twenty-one point ninety-nine (321.99) of the Code; and display of registration or plates under section three hundred twenty-one point ninety-eight (321.98) of the Code, the scheduled fine is twenty dollars.

o. For violations of sections three hundred twenty-four point fourteen (324.14), three hundred twenty-four point fifty-two (324.52) or three hundred twenty-four point seventy-four (324.74), subsections two (2) and six (6), of the Code, the scheduled fine is ten dollars.

p. Violations of the schedule of axle and tandem axle and gross or group of axle weight violations in section three hundred twenty-one point four hundred sixty-three (321.463) of the Code shall be scheduled violations subject to the provisions, procedures and exceptions contained in sections seven hundred fifty-three point thirteen (753.13) to seven hundred fifty-three point eighteen (753.18) of the Code, irrespective of the amount of the fine under that schedule. Violations of the schedule of weight violations shall be chargeable, where the fine charged does not exceed one hundred dollars, only by uniform citation and complaint. Violations of the schedule of weight violations, where the fine charged exceeds one hundred dollars: (1) Shall, when the violation is admitted and section seven hundred fifty-three point sixteen (753.16) of the Code applies, be chargeable upon uniform citation and complaint, indictment, or county attorney's information, (2) but otherwise, shall be chargeable only upon indictment or county attorney's information. In all cases of charges under the schedule of weight violations, the charge shall specify the amount of fine charged under the schedule. Where a defendant is convicted and the fine under the foregoing schedule of weight violations exceeds one hundred dollars, the conviction shall be of an indictable offense although section seven hundred fifty-three point sixteen (753.16) of the Code is employed and whether the violation is charged upon uniform citation and complaint, indictment, or county attorney's information.

3. VIOLATIONS OF NAVIGATION LAWS.

a. For violations of registration, inspection, identification and record provisions under sections one hundred six point four (106.4), one hundred six point five (106.5), one hundred six point ten (106.10), one hundred six point thirty-five (106.35), and one hundred six point thirty-seven (106.37) of the Code, the scheduled fine is five dollars.

b. For unused or improper or defective lights and warning devices under sections one hundred six point nine (106.9), subsections two (2), four (4), five (5), nine (9), ten (10) and thirteen (13), and one hundred six point eleven (106.11) of the Code, the scheduled fine is ten dollars.

c. For unused or improper or defective equipment under section one hundred six point nine (106.9), subsections six (6), seven (7) and eight (8), the scheduled fine is twenty dollars.

d. For operating violations under sections one hundred six point twelve (106.12), one hundred six point twenty-six (106.26), one hundred six point thirty-one (106.31), whether of state law or local ordinance, and one hundred six point thirty-three (106.33) of the Code, the scheduled fine is twenty dollars: However, violation of section one hundred six point twelve (106.12), subsection two (2) of the Code, is not a scheduled violation.

e. For operating violations under sections one hundred six point fifteen (106.15), subsection one (1), one hundred six point twenty-four (106.24) and one hundred six point thirty-four (106.34) of the Code, the scheduled fine is twenty-five dollars.

f. For violations of use, location and storage of vessels, devices and structures under sections one hundred six point twenty-seven (106.27), one hundred six point twenty-eight (106.28), and one hundred six point thirty-two (106.32) of the Code, the scheduled fine is fifteen dollars.

g. For violations of all subdivision ordinances under section one hundred six point seventeen (106.17), subsection two (2) of the Code, except those relating to matters subject to regulation by authority of subsection five (5) of section one hundred six point thirty-one (106.31) of the Code, the scheduled fine is ten dollars, whether or not a different scheduled fine is prescribed elsewhere in this subsection.

4. SNOWMOBILE VIOLATIONS.

a. For registration and identification violations under sections three hundred twenty-one G point three (321G.3) and three hundred twenty-one G point five (321G.5) of the Code, the scheduled fine is five dollars.

b. For operating violations under sections three hundred twenty-one G point nine (321G.9), subsections one (1), two (2), three (3), four (4), five (5), and seven (7), three hundred twenty-one G point eleven (321G.11), and three hundred twenty-one G point thirteen (321G.13), subsections four (4) and nine (9) of the Code, the scheduled fine is twenty dollars.

c. For improper or defective equipment under section three hundred twenty-one G point twelve (321G.12) of the Code, the scheduled fine is ten dollars.

d. For violations of section three hundred twenty-one G point nineteen (321G.19) of the Code, the scheduled fine is fifteen dollars.

5. FISH AND GAME LAW VIOLATIONS.

a. For violations of section one hundred ten point one (110.1) of the Code, the scheduled fine is ten dollars: However, engaging without a license in any activity the license fee for which is greater than ten dollars is not a scheduled violation.

b. For violations of sections one hundred nine point fifty-four (109.54), one hundred nine point eighty (109.80), unnumbered paragraph one (1), one hundred nine point eighty-two (109.82), one hundred nine point ninety-one (109.91), one hundred nine point one hundred twenty-two (109.122), one hundred ten point twelve (110.12), of the Code, and Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred seven (107), section one (1), the scheduled fine is twenty dollars.

6. VIOLATIONS RELATING TO THE USE AND MISUSE OF PARKS AND PRESERVES.

a. For violations under sections one hundred eleven point thirty-nine (111.39), one hundred eleven point forty-five (111.45) and one hundred eleven point fifty (111.50) of the

Code, the scheduled fine is ten dollars.

b. For violations under sections one hundred eleven point forty (111.40), one hundred eleven point forty-three (111.43), one hundred eleven point forty-six (111.46) and one hundred eleven point forty-nine (111.49) of the Code, the scheduled fine is fifteen dollars.

7. DESCRIPTION OF VIOLATIONS. The descriptions of offenses used in this section 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.

Sec. 519. Section seven hundred fifty-three point sixteen (753.16), subsections one (1) and two (2), and subsection three (3), paragraph a, Code 1975, are amended to read as follows:

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 the citation and complaint, together with the minimum fine for the violation, plus five dollars cost, to a ~~traffic~~ scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter three hundred twenty-one (321) of the Code, forward a copy of the citation and complaint and admission to the ~~commissioner of public safety~~ department of transportation as required by section 321.207. Thereupon the defendant shall not be required to appear before the court. The admission shall constitute 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 he is required to appear before the court, deliver or mail such copies, together with his or her admission, fine, and five dollars cost, to the ~~traffic~~ scheduled violations office in the county. The procedure,

fine and costs shall be the same as when the charge is by citation and complaint, with the admission and the number of the defendant's operator's or chauffeur's license placed upon the information, when the violation involves the use of a motor vehicle.

a. If the defendant wishes to admit the violation, the officer may release the defendant upon observing him mail the citation and complaint, admission, and minimum fine, together with five dollars costs, to a ~~traffic~~ scheduled violations office in the county, in an envelope furnished by the officer. The officer may allow the defendant 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.

Sec. 520. Section seven hundred fifty-three point sixteen (753.16), Code 1975, is amended by adding the following new subsection:

NEW SUBSECTION. The five dollars in costs imposed by this section shall be the total costs collectible from any defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection four (4) of this section. Fees shall not be imposed upon or collected from any defendant for the purposes specified in subsections nine (9), ten (10) or twenty (20) of section six hundred six point fifteen (606.15) of the Code.

Sec. 521. Section seven hundred fifty-three point seventeen (753.17), Code 1975, is amended to read as follows:

753.17 REQUIRED COURT APPEARANCE. Section 753.16 shall not apply to a scheduled violation in any of the following circumstances:

1. When the violation charged involved or resulted in an accident or injury to person or property.

2. When the violation involved the use of a motor vehicle and the officer believed the defendant did not have in force a valid operator's or chauffeur's license or permit.

3. When ~~the officer believed~~ the violation ~~was hazardous or aggravated~~ created an immediate threat to the safety of other persons or property because of highway conditions, visibility, traffic, repetition, or other circumstances.

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 ~~traffic~~ scheduled violations office and shall endorse thereon "Court appearance required"~~.~~ ~~A~~ and the defendant shall appear before the court ~~for any nonscheduled violation~~ either in person or by attorney.

Sec. 522. Section seven hundred fifty-three point eighteen (753.18), Code 1975, is amended to read as follows:

753.18 OTHER PENALTIES. If the defendant is convicted of a scheduled violation, the penalty shall be the scheduled fine, without suspension of the fine prescribed in section 753.15 together with costs assessed and distributed as prescribed by section 602.63, unless it appears from the evidence that the violation was of the type set forth in section 753.17, ~~subsection~~ subsections one (1) or 3, in which event the ~~punishment shall be increased accordingly within the limits of law~~ scheduled fine shall not apply and the penalty shall be increased within the limits provided by law for the offense.

Upon the conviction of a defendant of a violation specified in sections seven hundred fifty-three point fifteen (753.15) or seven hundred fifty-three point seventeen (753.17) of the Code, fees shall not be imposed or collected for the purposes specified in subsections nine (9), ten (10), or twenty (20) of section six hundred six point fifteen (606.15) of the Code.

Sec. 523. Section seven hundred fifty-three point nineteen (753.19), Code 1975, is amended to read as follows:

753.19 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 remitted in accordance with section 602.55.

Sec. 524. Section seven hundred fifty-three point twenty (753.20), Code 1975, is amended to read as follows:

753.20 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.

2. Upon written consent of the defendant and the officer ~~who apprehended him~~ 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 seven hundred fifty-three point seventeen (753.17) of the Code, 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.

Sec. 525. Sections one hundred point thirty-seven (100.37), two hundred forty-five point fourteen (245.14), two hundred forty-six point nine (246.9), two hundred forty-six point ten (246.10), two hundred forty-six point twenty-three (246.23), two hundred forty-six point forty-four (246.44), two hundred forty-seven point one (247.1), two hundred forty-seven point two (247.2), two hundred forty-seven point three (247.3), two hundred forty-seven point four (247.4), two hundred forty-seven point five (247.5), two hundred forty-seven point six (247.6), two hundred forty-seven point seven (247.7), two hundred forty-seven point eight (247.8), two hundred forty-seven point nine (247.9), two hundred forty-seven point ten (247.10), two hundred forty-seven point eleven (247.11), two hundred forty-seven point twelve (247.12), two hundred forty-seven point thirteen (247.13), two hundred forty-seven point fourteen (247.14), two hundred forty-seven

point fifteen (247.15), two hundred forty-seven point sixteen (247.16), two hundred forty-seven point seventeen (247.17), two hundred forty-seven point eighteen (247.18), two hundred forty-seven point nineteen (247.19), two hundred forty-seven point twenty-four (247.24), two hundred forty-seven point twenty-five (247.25), two hundred forty-seven point twenty-six (247.26), two hundred forty-seven point twenty-seven (247.27), two hundred forty-seven point twenty-eight (247.28), two hundred forty-seven point thirty-three (247.33), two hundred forty-seven A point six (247A.6), two hundred fifty-two point nineteen (252.19), two hundred eighty-seven point four (287.4), two hundred ninety-nine point twelve (299.12), three hundred twenty-one point seventy-six (321.76), three hundred twenty-one point seventy-seven (321.77), three hundred twenty-one point eighty (321.80), three hundred twenty-one point eighty-two (321.82), three hundred twenty-one point eighty-three (321.83), three hundred thirty-four point four (334.4), three hundred thirty-eight point ten (338.10), three hundred forty-three point six (343.6), three hundred fifty-six point thirty-six (356.36), four hundred forty-one point fifty-three (441.53), four hundred fifty-four point twenty-seven (454.27), four hundred seventy-four point forty-one (474.41), four hundred seventy-seven point fifty-eight (477.58), four hundred seventy-seven point fifty-nine (477.59), four hundred seventy-seven point sixty (477.60), four hundred seventy-nine point nineteen (479.19), four hundred seventy-nine point one hundred nine (479.109), four hundred seventy-nine point one hundred ten (479.110), four hundred seventy-nine point one hundred eleven (479.111), four hundred seventy-nine point one hundred twelve (479.112), four hundred seventy-nine point one hundred thirteen (479.113), four hundred seventy-nine point one hundred fourteen (479.114), four hundred seventy-nine point one hundred fifteen (479.115), five hundred eleven point nineteen (511.19), five hundred fifty-two point three (552.3), six hundred two point fifteen (602.15), seven hundred thirteen point one (713.1), seven hundred thirteen

point two (713.2), seven hundred thirteen point three (713.3), seven hundred thirteen point four (713.4), seven hundred thirteen point five (713.5), seven hundred thirteen point six (713.6), seven hundred thirteen point seven (713.7), seven hundred thirteen point eight (713.8), seven hundred thirteen point nine (713.9), seven hundred thirteen point ten (713.10), seven hundred thirteen point eleven (713.11), seven hundred thirteen point twelve (713.12), seven hundred thirteen point thirteen (713.13), seven hundred thirteen point fourteen (713.14), seven hundred thirteen point fifteen (713.15), seven hundred thirteen point sixteen (713.16), seven hundred thirteen point twenty-two (713.22), seven hundred thirteen point twenty-three (713.23), seven hundred thirteen point twenty-six (713.26), seven hundred thirteen point twenty-seven (713.27), seven hundred thirteen point twenty-eight (713.28), seven hundred thirteen point twenty-nine (713.29), seven hundred thirteen point thirty (713.30), seven hundred thirteen point thirty-one (713.31), seven hundred thirteen point thirty-two (713.32), seven hundred thirteen point thirty-three (713.33), seven hundred thirteen point thirty-four (713.34), seven hundred thirteen point thirty-five (713.35), seven hundred thirteen point thirty-six (713.36), seven hundred thirteen point thirty-seven (713.37), seven hundred thirteen point thirty-eight (713.38), seven hundred thirteen point thirty-nine (713.39), seven hundred thirteen point forty (713.40), seven hundred thirteen point forty-one (713.41), seven hundred thirteen point forty-two (713.42), seven hundred thirteen point forty-three (713.43), seven hundred forty point one (740.1), seven hundred forty point two (740.2), seven hundred forty point three (740.3), seven hundred forty point four (740.4), seven hundred forty point five (740.5), seven hundred forty point six (740.6), seven hundred forty point seven (740.7), seven hundred forty point eight (740.8), seven hundred forty point nine (740.9), seven hundred forty point ten (740.10), seven hundred forty point eleven (740.11), seven hundred forty point twelve (740.12), seven hundred forty point

nineteen (740.19), seven hundred forty point twenty (740.20), seven hundred fifty-three point one (753.1), seven hundred fifty-three point two (753.2), seven hundred fifty-three point three (753.3), seven hundred fifty-three point four (753.4), seven hundred fifty-three point five (753.5), seven hundred fifty-three point six (753.6), seven hundred fifty-three point seven (753.7), seven hundred fifty-three point eight (753.8), and seven hundred fifty-three point nine (753.9), Code 1975, are repealed.

Sec. 526. Chapters thirty-eight (38), one hundred twenty-one (121), two hundred sixteen (216), two hundred twenty-five A (225A), six hundred forty-five (645), six hundred eighty-seven (687), six hundred eighty-eight (688), six hundred eighty-nine (689), six hundred ninety (690), six hundred ninety-one (691), six hundred ninety-two (692), six hundred ninety-three (693), six hundred ninety-four (694), six hundred ninety-five (695), six hundred ninety-six (696), six hundred ninety-seven (697), six hundred ninety-eight (698), six hundred ninety-nine (699), seven hundred (700), seven hundred one (701), seven hundred two (702), seven hundred three (703), seven hundred four (704), seven hundred five (705), seven hundred six (706), seven hundred seven (707), seven hundred eight (708), seven hundred nine (709), seven hundred ten (710), seven hundred eleven (711), seven hundred twelve (712), seven hundred fourteen (714), seven hundred fifteen (715), seven hundred sixteen (716), seven hundred seventeen (717), seven hundred eighteen (718), seven hundred nineteen (719), seven hundred twenty (720), seven hundred twenty-one (721), seven hundred twenty-two (722), seven hundred twenty-three (723), seven hundred twenty-four (724), seven hundred twenty-five (725), seven hundred twenty-seven (727), seven hundred twenty-eight (728), seven hundred twenty-nine (729), seven hundred thirty-one (731), seven hundred thirty-one A (731A), seven hundred thirty-two (732), seven hundred thirty-four (734), seven hundred thirty-seven (737), seven hundred thirty-eight (738), seven hundred thirty-nine (739), seven hundred

forty-one (741), seven hundred forty-two (742), seven hundred forty-three (743), seven hundred forty-four (744), seven hundred forty-five (745), seven hundred forty-six (746), seven hundred forty-seven (747), seven hundred forty-eight (748), seven hundred fifty-one (751), seven hundred fifty-two (752), seven hundred fifty-four (754), seven hundred fifty-five (755), seven hundred fifty-six (756), seven hundred fifty-seven (757), seven hundred fifty-eight (758), seven hundred sixty (760), seven hundred sixty-one (761), seven hundred sixty-two (762), seven hundred sixty-three (763), seven hundred sixty-four (764), seven hundred sixty-five (765), seven hundred sixty-six (766), seven hundred sixty-seven (767), seven hundred sixty-eight (768), seven hundred sixty-nine (769), seven hundred seventy (770), seven hundred seventy-one (771), seven hundred seventy-two (772), seven hundred seventy-three (773), seven hundred seventy-four (774), seven hundred seventy-five (775), seven hundred seventy-six (776), seven hundred seventy-seven (777), seven hundred seventy-eight (778), seven hundred seventy-nine (779), seven hundred eighty (780), seven hundred eighty-one (781), seven hundred eighty-two (782), seven hundred eighty-three (783), seven hundred eighty-four (784), seven hundred eighty-five (785), seven hundred eighty-six (786), seven hundred eighty-seven (787), seven hundred eighty-eight (788), seven hundred eighty-nine (789), seven hundred eighty-nine A (789A), seven hundred ninety (790), seven hundred ninety-one (791), seven hundred ninety-three (793), seven hundred ninety-four (794), and seven hundred ninety-five (795), Code 1975, are repealed.

Sec. 527. Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred eighty-three (183), is repealed. The provisions of this section shall take effect July 1, 1976.

Sec. 528. APPLICABILITY TO OFFENSES COMMITTED BEFORE THE EFFECTIVE DATE.

1. Except as provided in subsections two (2) and three (3) of this section, this Act does not apply to offenses committed before its effective date. Prosecutions for offenses

committed before the effective date are governed by the prior law, which is continued in effect for that purpose, as if this Act were not in force. For purposes of this section, an offense is committed before the effective date if any of the elements of the offense occurred before that date.

2. In any case pending on or commenced after the effective date of this Act, involving an offense committed before that date:

a. Upon the request of the defendant a defense or mitigation under this Act, whether specifically provided for herein or based upon the failure of the Act to define an applicable offense, shall apply; and

b. Upon the request of the defendant and the approval of the court:

(1) Procedural provision of this Act shall apply insofar as they are justly applicable; and

(2) The court may impose a sentence or suspend imposition of a sentence under the provisions of this Act applicable to the offense and the offender.

3. Provisions of this Act governing the release or discharge of prisoners, probationers, and parolees shall apply to persons under sentence for offenses committed before the effective date of this Act, except that the minimum or maximum period of their detention or supervision shall in no case be increased, nor shall the provisions of this Act affect the substantive or procedural validity of any judgment of conviction entered before the effective date of this Act, regardless of the fact that appeal time has not run or that an appeal is pending.

Sec. 529. Except as otherwise specifically provided, the provisions of this Act shall take effect January 1, 1978.

Sec. 530. The supreme court is authorized to propose changes in the rules of criminal procedure for consideration by the First Session of the Sixty-seventh Session of the General Assembly. This section shall be effective July 1, 1976. Any rules promulgated under the authority of this

section shall become effective January 1, 1978.

Sec. 531. Notwithstanding any other provision of the Code of Iowa, this Act shall, insofar as possible, be included in the Code of Iowa with the chapters, divisions and sections of this Act as the chapters, divisions and sections of the Code and with the descriptive word titles of the Act retained. No editorial modification of this Act shall be incorporated into the Code without prior approval of the director of the legislative service bureau.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 85, Sixty-sixth General Assembly.

STEVEN C. CROSS
Secretary of the Senate

Approved June 28, 1976

ROBERT D. RAY
Governor