

5-3/10/98 *Judiciary*
S. 3/17/98 *Des Pass*

MAR 4 1998
Place On Calendar

HOUSE FILE **2527**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 561)

(p.581)
Passed House, Date 3/10/98
Vote: Ayes 93 Nays 0
(p.862)
Passed Senate, Date 3/24/98
Vote: Ayes 49 Nays 0
Approved April 13, 1998

A BILL FOR

1 An Act providing for victim rights, providing for penalties, and
2 an effective date.

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

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HOUSE FILE 2527

S-5290

1 Amend House File 2527, as passed by the House, as
2 follows:

3 1. Page 29, line 12, by inserting after the word
4 "not" the following: "request or".

5 2. Page 29, line 18, by striking the words
6 "wishing to perform" and inserting the following:
7 "that performs".

By JOHNIE HAMMOND

Lost 3/24/98 (p.861)

S-5290 FILED MARCH 19, 1998

HF 2527

1 Section 1. NEW SECTION. 915.1 TITLE.

2 This chapter shall be known and may be cited as "Victim
3 Rights Act".

4 Sec. 2. NEW SECTION. 915.2 IMMUNITY.

5 This chapter does not create a civil cause of action except
6 where expressly stated, and a person is not liable for damages
7 resulting from an act or omission in regard to any
8 responsibility or authority created by this chapter, and such
9 acts or omissions shall not be used in any proceeding for
10 damages. This section does not apply to acts or omissions
11 which constitute a willful and wanton disregard for the rights
12 or safety of another.

13 Sec. 3. NEW SECTION. 915.3 IMMUNITY -- CITIZEN
14 INTERVENTION.

15 Any person who, in good faith and without remuneration,
16 renders reasonable aid or assistance to another against whom a
17 crime is being committed or, if rendered at the scene of the
18 crime, to another against whom a crime has been committed, is
19 not liable for any civil damages for acts or omissions
20 resulting from the aid or assistance, and is eligible to file
21 a claim for reimbursement as a victim under this chapter.

22 Sec. 4. Sections 915.10 through 915.23, as enacted in this
23 Act, are enacted as a new subchapter of chapter 915, entitled
24 "Registration, Notification, and Rights in Criminal
25 Proceedings".

26 Sec. 5. NEW SECTION. 915.10 DEFINITIONS.

27 As used in this subchapter, unless the context otherwise
28 requires:

29 1. "Notification" means mailing by regular mail or
30 providing for hand delivery of appropriate information or
31 papers. However, this notification procedure does not
32 prohibit an agency from also providing appropriate information
33 to a registered victim by telephone.

34 2. "Registered" means having provided the county attorney
35 with the victim's written request for registration and current

1 mailing address and telephone number.

2 3. "Victim" means a person who has suffered physical,
3 emotional, or financial harm as the result of a public
4 offense, other than a simple misdemeanor, committed in this
5 state. "Victim" also includes the immediate family members of
6 a victim who died or was rendered incompetent as a result of
7 the offense or who was under eighteen years of age at the time
8 of the offense.

9 4. "Victim impact statement" means a written or oral
10 presentation to the court by the victim or the victim's
11 representative that indicates the physical, emotional,
12 financial, or other effects of the offense upon the victim.

13 5. "Violent crime" means a forcible felony, as defined in
14 section 702.11, and includes any other felony or aggravated
15 misdemeanor which involved the actual or threatened infliction
16 of physical or emotional injury on one or more persons.

17 Sec. 6. NEW SECTION. 915.11 INITIAL NOTIFICATION BY LAW
18 ENFORCEMENT.

19 A local police department or county sheriff's department
20 shall advise a victim of the right to register with the county
21 attorney, and shall provide a request-for-registration form to
22 each victim.

23 Sec. 7. NEW SECTION. 915.12 REGISTRATION.

24 1. The county attorney shall be the sole registrar of
25 victims under this subchapter.

26 2. A victim may register by filing a written request-for-
27 registration form with the county attorney. The county
28 attorney shall notify the victims in writing and advise them
29 of their registration and rights under this subchapter.

30 3. The county attorney shall provide a registered victim
31 list to the offices, agencies, and departments required to
32 provide information under this subchapter for notification
33 purposes.

34 4. Notwithstanding chapter 22 or any other contrary
35 provision of law, a victim's registration shall be strictly

1 maintained in a separate confidential file, and shall be
2 available only to the offices, agencies, and departments
3 required to provide information under this subchapter.

4 Sec. 8. NEW SECTION. 915.13 NOTIFICATION BY COUNTY
5 ATTORNEY.

6 1. The county attorney shall notify a victim registered
7 with the county attorney's office of the following:

8 a. The scheduled date, time, and place of trial, and the
9 cancellation or postponement of a court proceeding that was
10 expected to require the victim's attendance, in any criminal
11 case relating to the crime for which the person is a
12 registered victim.

13 b. The possibility of assistance through the crime victim
14 compensation program, and the procedures for applying for that
15 assistance.

16 c. The right to restitution for pecuniary losses suffered
17 as a result of crime, and the process for seeking such relief.

18 d. The victim's right to make a victim impact statement,
19 in one or both of the following formats:

20 (1) Written victim impact statement. Notification shall
21 include the procedures for filing such a statement.

22 (2) Oral victim impact statement, delivered in court in
23 the presence of the defendant. The victim shall also be
24 notified of the time and place for such statement.

25 e. The date on which the offender is released on bail or
26 appeal, pursuant to section 811.5.

27 f. Except where the prosecuting attorney determines that
28 disclosure of such information would unreasonably interfere
29 with the investigation, at the request of the registered
30 victim, notice of the status of the investigation shall be
31 provided by law enforcement authorities investigating the
32 case, until the alleged assailant is apprehended or the
33 investigation is closed.

34 g. The right to be informed of any plea agreements related
35 to the crime for which the person is a registered victim.

1 2. The county attorney and the juvenile court shall
2 coordinate efforts so as to prevent duplication of
3 notification under this section and section 915.24.

4 Sec. 9. NEW SECTION. 915.14 NOTIFICATION BY CLERK OF THE
5 DISTRICT COURT.

6 The clerk of the district court shall notify a registered
7 victim of all dispositional orders of the case in which the
8 victim was involved and may advise the victim of any other
9 orders regarding custody or confinement.

10 Sec. 10. NEW SECTION. 915.15 NOTIFICATION BY DEPARTMENT
11 OF JUSTICE.

12 The department of justice shall notify a registered victim
13 of the filing of an appeal, the expected date of decision on
14 the appeal as the information becomes available to the
15 department, all dispositional orders in the appeal, and the
16 outcome of the appeal of a case in which the victim was
17 involved.

18 Sec. 11. NEW SECTION. 915.16 NOTIFICATION BY LOCAL
19 CORRECTIONAL INSTITUTIONS.

20 The county sheriff or other person in charge of the local
21 jail or detention facility shall notify a registered victim of
22 the following:

- 23 1. The offender's release from custody on bail and the
24 terms or conditions of the release.
- 25 2. The offender's final release from local custody.
- 26 3. The offender's escape from custody.
- 27 4. The offender's transfer from local custody to custody
28 in another locality.

29 Sec. 12. NEW SECTION. 915.17 NOTIFICATION BY DEPARTMENT
30 OF CORRECTIONS.

31 1. The department of corrections shall notify a registered
32 victim, regarding an offender convicted of a violent crime and
33 committed to the custody of the director of the department of
34 corrections, of the following:

- 35 a. The date on which the offender is expected to be

1 released from custody on work release, and whether the
2 offender is expected to return to the community where the
3 registered victim resides.

4 b. The date on which the offender is expected to be
5 temporarily released from custody on furlough, and whether the
6 offender is expected to return to the community where the
7 registered victim resides.

8 c. The offender's escape from custody.

9 d. The recommendation by the department of the offender
10 for parole consideration.

11 e. The date on which the offender is expected to be
12 released from an institution pursuant to a plan of parole or
13 upon discharge of sentence.

14 f. The transfer of custody of the offender to another
15 state or federal jurisdiction.

16 g. The procedures for contacting the department to
17 determine the offender's current institution of residence.

18 h. Information which may be obtained upon request
19 pertaining to or the procedures for obtaining information upon
20 request pertaining to the offender's current employer.

21 2. The director of the department of corrections, or the
22 director's designee, having probable cause to believe that a
23 person has escaped from a state correctional institution or a
24 person convicted of a forcible felony who is released on work
25 release has absconded from a work release facility shall:

26 a. Make a complaint before a judge or magistrate. If it
27 is determined from the complaint or accompanying affidavits
28 that there is probable cause to believe that the person has
29 escaped from a state correctional institution or that the
30 forcible felon has absconded from a work release facility, the
31 judge or magistrate shall issue a warrant for the arrest of
32 the person.

33 b. Issue an announcement regarding the fact of the escape
34 of the person or the abscondence of the forcible felon to the
35 law enforcement authorities in, and to the news media

1 covering, communities in a twenty-five mile radius of the
2 point of escape or abscondence.

3 Sec. 13. NEW SECTION. 915.18 NOTIFICATION BY BOARD OF
4 PAROLE.

5 1. The board of parole shall notify a registered victim
6 regarding an offender who has committed a violent crime as
7 follows:

8 a. Not less than twenty days prior to conducting a hearing
9 at which the board will interview an offender, the board shall
10 notify the victim of the interview and inform the victim that
11 the victim may submit the victim's opinion concerning the
12 release of the offender in writing prior to the hearing or may
13 appear personally or by counsel at the hearing to express an
14 opinion concerning the offender's release.

15 b. Whether or not the victim appears at the hearing or
16 expresses an opinion concerning the offender's release on
17 parole, the board shall notify the victim of the board's
18 decision regarding release of the offender.

19 2. Offenders who are being considered for release on
20 parole may be informed of a victim's registration with the
21 county attorney and the substance of any opinion submitted by
22 the victim regarding the release of the offender.

23 3. If the board of parole makes a recommendation to the
24 governor for a reprieve, pardon, or commutation of sentence of
25 an offender, as provided in section 914.3, the board shall
26 forward with the recommendation information identifying a
27 registered victim for the purposes of notification by the
28 governor as required in section 915.19.

29 Sec. 14. NEW SECTION. 915.19 NOTIFICATION BY THE
30 GOVERNOR.

31 1. Prior to the governor granting a reprieve, pardon, or
32 commutation to an offender convicted of a violent crime, the
33 governor shall notify a registered victim that the victim's
34 offender has applied for a reprieve, pardon, or commutation.
35 The governor shall notify a registered victim regarding the

1 application not less than forty-five days prior to issuing a
2 decision on the application. The governor shall inform the
3 victim that the victim may submit a written opinion concerning
4 the application.

5 2. The county attorney may notify an offender being
6 considered for a reprieve, pardon, or commutation of sentence
7 of a victim's registration with the county attorney and the
8 substance of any opinion submitted by the victim concerning
9 the reprieve, pardon, or commutation of sentence.

10 Sec. 15. NEW SECTION. 915.20 PRESENCE OF VICTIM
11 COUNSELORS.

12 1. As used in this section, unless the context otherwise
13 requires:

14 a. "Proceedings related to the offense" means any
15 activities engaged in or proceedings commenced by a law
16 enforcement agency, judicial district department of
17 correctional services, or a court pertaining to the commission
18 of a public offense against the victim, in which the victim is
19 present, as well as examinations of the victim in an emergency
20 medical facility due to injuries from the public offense which
21 do not require surgical procedures. "Proceedings related to
22 the offense" includes, but is not limited to, law enforcement
23 investigations, pretrial court hearings, trial and sentencing
24 proceedings, and proceedings relating to the preparation of a
25 presentence investigation report in which the victim is
26 present.

27 b. "Victim counselor" means a victim counselor as defined
28 in section 915.20A.

29 2. A victim counselor who is present as a result of a
30 request by a victim shall not be denied access to any
31 proceedings related to the offense.

32 3. This section does not affect the inherent power of the
33 court to regulate the conduct of discovery pursuant to the
34 Iowa rules of criminal or civil procedure or to preside over
35 and control the conduct of criminal or civil hearings or

1 trials.

2 Sec. 16. NEW SECTION. 915.20A VICTIM COUNSELOR

3 PRIVILEGE.

4 1. As used in this section:

5 a. "Confidential communication" means information shared
6 between a crime victim and a victim counselor within the
7 counseling relationship, and includes all information received
8 by the counselor and any advice, report, or working paper
9 given to or prepared by the counselor in the course of the
10 counseling relationship with the victim.

11 Confidential information is confidential information which,
12 so far as the victim is aware, is not disclosed to a third
13 party with the exception of a person present in the
14 consultation for the purpose of furthering the interest of the
15 victim, a person to whom disclosure is reasonably necessary
16 for the transmission of the information, or a person with whom
17 disclosure is necessary for accomplishment of the purpose for
18 which the counselor is consulted by the victim.

19 b. "Crime victim center" means any office, institution,
20 agency, or crisis center offering assistance to victims of
21 crime and their families through crisis intervention,
22 accompaniment during medical and legal proceedings, and
23 follow-up counseling.

24 c. "Victim" means a person who consults a victim counselor
25 for the purpose of securing advice, counseling, or assistance
26 concerning a mental, physical, or emotional condition caused
27 by a violent crime committed against the person.

28 d. "Victim counselor" means a person who is engaged in a
29 crime victim center, is certified as a counselor by the crime
30 victim center, and is under the control of a direct services
31 supervisor of a crime victim center, whose primary purpose is
32 the rendering of advice, counseling, and assistance to the
33 victims of crime. To qualify as a "victim counselor" under
34 this section, the person must also have completed at least
35 twenty hours of training provided by the center in which the

1 person is engaged, by the Iowa organization of victim
2 assistance, by the Iowa coalition against sexual abuse, or by
3 the Iowa coalition against domestic violence, which shall
4 include but not be limited to, the dynamics of victimization,
5 substantive laws relating to violent crime, sexual assault,
6 and domestic violence, crisis intervention techniques,
7 communication skills, working with diverse populations, an
8 overview of the state criminal justice system, information
9 regarding pertinent hospital procedures, and information
10 regarding state and community resources for victims of crime.

11 2. A victim counselor shall not be examined or required to
12 give evidence in any civil or criminal proceeding as to any
13 confidential communication made by a victim to the counselor,
14 nor shall a clerk, secretary, stenographer, or any other
15 employee who types or otherwise prepares or manages the
16 confidential reports or working papers of a victim counselor
17 be required to produce evidence of any such confidential
18 communication, unless the victim waives this privilege in
19 writing or disclosure of the information is compelled by a
20 court pursuant to subsection 7. Under no circumstances shall
21 the location of a crime victim center or the identity of the
22 victim counselor be disclosed in any civil or criminal
23 proceeding.

24 3. If a victim is deceased or has been declared to be
25 incompetent, this privilege specified in subsection 2 may be
26 waived by the guardian of the victim or by the personal
27 representative of the victim's estate.

28 4. A minor may waive the privilege under this section
29 unless, in the opinion of the court, the minor is incapable of
30 knowingly and intelligently waiving the privilege, in which
31 case the parent or guardian of the minor may waive the
32 privilege on the minor's behalf if the parent or guardian is
33 not the defendant and does not have such a relationship with
34 the defendant that the parent or guardian has an interest in
35 the outcome of the proceeding being favorable to the

1 defendant.

2 5. The privilege under this section does not apply in
3 matters of proof concerning the chain of custody of evidence,
4 in matters of proof concerning the physical appearance of the
5 victim at the time of the injury or the counselor's first
6 contact with the victim after the injury, or where the
7 counselor has reason to believe that the victim has given
8 perjured testimony and the defendant or the state has made an
9 offer of proof that perjury may have been committed.

10 6. The failure of a counselor to testify due to this
11 section shall not give rise to an inference unfavorable to the
12 cause of the state or the cause of the defendant.

13 7. Upon the motion of a party, accompanied by a written
14 offer of proof, a court may compel disclosure of certain
15 information if the court determines that all of the following
16 conditions are met:

17 a. The information sought is relevant and material
18 evidence of the facts and circumstances involved in an alleged
19 criminal act which is the subject of a criminal proceeding.

20 b. The probative value of the information outweighs the
21 harmful effect, if any, of disclosure on the victim, the
22 counseling relationship, and the treatment services.

23 c. The information cannot be obtained by reasonable means
24 from any other source.

25 8. In ruling on a motion under subsection 7, the court, or
26 a different judge, if the motion was filed in a criminal
27 proceeding to be tried to the court, shall adhere to the
28 following procedure:

29 a. The court may require the counselor from whom
30 disclosure is sought or the victim claiming the privilege, or
31 both, to disclose the information in chambers out of the
32 presence and hearing of all persons except the victim and any
33 other persons the victim is willing to have present.

34 b. If the court determines that the information is
35 privileged and not subject to compelled disclosure, the

1 information shall not be disclosed by any person without the
2 consent of the victim.

3 c. If the court determines that certain information may be
4 subject to disclosure, as provided in subsection 7, the court
5 shall so inform the party seeking the information and shall
6 order a subsequent hearing out of the presence of the jury, if
7 any, at which the parties shall be allowed to examine the
8 counselor regarding the information which the court has
9 determined may be subject to disclosure. The court may accept
10 other evidence at that time.

11 d. At the conclusion of a hearing under paragraph "c", the
12 court shall determine which information, if any, shall be
13 disclosed and may enter an order describing the evidence which
14 may be introduced by the moving party and prescribing the line
15 of questioning which may be permitted. The moving party may
16 then offer evidence pursuant to the court order. However, no
17 victim counselor is subject to exclusion under Iowa rule of
18 evidence 615.

19 9. This section does not relate to the admission of
20 evidence of the victim's past sexual behavior which is
21 strictly subject to Iowa rule of evidence 412.

22 Sec. 17. NEW SECTION. 915.21 VICTIM IMPACT STATEMENT.

23 1. A victim may present a victim impact statement to the
24 court using one or more of the following methods:

25 a. A victim may file a signed victim impact statement with
26 the county attorney, and a filed impact statement shall be
27 included in the presentence investigation report. If a
28 presentence investigation report is not ordered by the court,
29 a filed victim impact statement shall be provided to the court
30 prior to sentencing.

31 b. A victim may orally present a victim impact statement
32 at the sentencing hearing, in the presence of the defendant,
33 and at any hearing regarding reconsideration of sentence.

34 c. If the victim is unable to make an oral or written
35 statement because of the victim's age, or mental, emotional,

1 or physical incapacity, the victim's attorney or a designated
2 representative shall have the opportunity to make a statement
3 on behalf of the victim.

4 2. A victim impact statement shall include the
5 identification of the victim of the offense, and may include
6 the following:

7 a. Itemization of any economic loss suffered by the victim
8 as a result of the offense. For purposes of this paragraph, a
9 pecuniary damages statement prepared by a county attorney
10 pursuant to section 910.3 may serve as the itemization of
11 economic loss.

12 b. Identification of any physical injury suffered by the
13 victim as a result of the offense with detail as to its
14 seriousness and permanence.

15 c. Description of any change in the victim's personal
16 welfare or familial relationships as a result of the offense.

17 d. Description of any request for psychological services
18 initiated by the victim or the victim's family as a result of
19 the offense.

20 e. Any other information related to the impact of the
21 offense upon the victim.

22 Sec. 18. NEW SECTION. 915.22 CIVIL INJUNCTION TO
23 RESTRAIN HARASSMENT OR INTIMIDATION OF VICTIMS OR WITNESSES.

24 1. Upon application, the court shall issue a temporary
25 restraining order prohibiting the harassment or intimidation
26 of a victim or witness in a criminal case if the court finds,
27 from specific facts shown by affidavit or by verified
28 complaint, that there are reasonable grounds to believe that
29 harassment or intimidation of an identified victim or witness
30 in a criminal case exist or that the order is necessary to
31 prevent and restrain an offense under this subchapter.

32 a. A temporary restraining order may be issued under this
33 subsection without written or oral notice to the adverse party
34 or the party's attorney in a civil action under this section
35 or in a criminal case if the court finds, upon written

1 certification of facts, that the notice should not be required
2 and that there is a reasonable probability that the party will
3 prevail on the merits. The temporary restraining order shall
4 set forth the reasons for the issuance of the order, be
5 specific in terms, and describe in reasonable detail the act
6 or acts being restrained.

7 b. A temporary restraining order issued without notice
8 under this section shall be endorsed with the date and hour of
9 issuance and be filed immediately in the office of the clerk
10 of the district court issuing the order.

11 c. A temporary restraining order issued under this section
12 shall expire at such time as the court directs, not to exceed
13 ten days from issuance. The court, for good cause shown
14 before expiration of the order, may extend the expiration date
15 of the order for up to ten days, or for a longer period agreed
16 to by the adverse party.

17 d. When a temporary restraining order is issued without
18 notice, the motion for a protective order shall be set down
19 for hearing at the earliest possible time and takes precedence
20 over all matters except older matters of the same character.
21 If the party does not proceed with the application for a
22 protective order when the motion is heard, the court shall
23 dissolve the temporary restraining order.

24 e. If, after two days' notice to the party or after a
25 shorter notice as the court prescribes, the adverse party
26 appears and moves to dissolve or modify the temporary
27 restraining order, the court shall proceed to hear and
28 determine the motion as expeditiously as possible.

29 2. Upon motion of the party, the court shall issue a
30 protective order prohibiting the harassment or intimidation of
31 a victim or witness in a criminal case if the court, after a
32 hearing, finds by a preponderance of the evidence that
33 harassment or intimidation of an identified victim or witness
34 in a criminal case exists or that the order is necessary to
35 prevent and restrain an offense under this chapter.

1 a. At the hearing, any adverse party named in the
2 complaint has the right to present evidence and cross-examine
3 witnesses.

4 b. A protective order shall set forth the reasons for the
5 issuance of the order, be specific in terms, and describe in
6 reasonable detail the act or acts being restrained.

7 c. The court shall set the duration of the protective
8 order for the period it determines is necessary to prevent the
9 harassment or intimidation of the victim or witness, but the
10 duration shall not be set for a period in excess of one year
11 from the date of the issuance of the order. The party, at any
12 time within ninety days before the expiration of the order,
13 may apply for a new protective order under this section.

14 3. Violation of a restraining or protective order issued
15 under this section constitutes contempt of court and may be
16 punished by contempt proceedings.

17 4. An application may be made pursuant to this section in
18 a criminal case, and if made, a district associate judge or
19 magistrate having jurisdiction of the highest offense charged
20 in the criminal case or a district judge shall have
21 jurisdiction to enter an order under this section.

22 5. The clerk of the district court shall provide notice
23 and copies of restraining orders issued pursuant to this
24 section in a criminal case involving an alleged violation of
25 section 708.2A to the applicable law enforcement agencies and
26 the twenty-four hour dispatcher for the law enforcement
27 agencies, in the manner provided for protective orders under
28 section 236.5. The clerk shall provide notice and copies of
29 modifications or vacations of these orders in the same manner.

30 Sec. 19. NEW SECTION. 915.23 EMPLOYMENT DISCRIMINATION
31 AGAINST WITNESSES PROHIBITED.

32 1. An employer shall not discharge an employee from, or
33 take or fail to take action, regarding an employee's promotion
34 or proposed promotion, or take action to reduce an employee's
35 wages or benefits, for actual time worked, due to the service

1 of an employee as a witness in a criminal proceeding.

2 2. An employer who violates this section commits a simple
3 misdemeanor.

4 3. An employee whose employer violates this section shall
5 also be entitled to recover damages from the employer.

6 Damages recoverable under this section include, but are not
7 limited to, actual damages, court costs, and reasonable
8 attorney fees.

9 4. The employee may also petition the court for imposition
10 of a cease and desist order against the person's employer and
11 for reinstatement to the person's previous position of
12 employment.

13 Sec. 20. Sections 915.24 through 915.29, as enacted in
14 this Act, are enacted as a new subchapter of chapter 915,
15 entitled "Victims of Juveniles".

16 Sec. 21. NEW SECTION. 915.24 NOTIFICATION OF VICTIM OF
17 JUVENILE BY JUVENILE COURT OFFICER.

18 1. If a complaint is filed alleging that a child has
19 committed a delinquent act, a juvenile court officer shall
20 notify the alleged victim, as defined in section 915.10, of
21 the following rights:

22 a. To be notified of the names and addresses of the child
23 and of the child's custodial parent or guardian.

24 b. To be notified of the specific charge or charges filed
25 in a petition resulting from the complaint and regarding any
26 dispositional orders or informal adjustments.

27 c. To be informed of the person's rights to restitution.

28 d. To be notified of the person's right to offer a written
29 victim impact statement and to orally present the victim
30 impact statement.

31 e. To be informed of the availability of assistance
32 through the crime victim compensation program.

33 2. The juvenile court and the county attorney shall
34 coordinate efforts so as to prevent duplication of
35 notification under this section and section 915.13.

1 Sec. 22. NEW SECTION. 915.25 RIGHT TO REVIEW COMPLAINT
2 AGAINST JUVENILE.

3 1. A complaint filed with the court or its designee
4 pursuant to chapter 232 which alleges that a child who is at
5 least ten years of age has committed a delinquent act, which
6 if committed by an adult would be a public offense, is a
7 public record and shall not be confidential under section
8 232.147.

9 2. The court, its designee, or law enforcement officials
10 are authorized to release the complaint, including the
11 identity of the child named in the complaint.

12 Sec. 23. NEW SECTION. 915.26 VICTIM IMPACT STATEMENT BY
13 VICTIM OF JUVENILE.

14 1. If a complaint is filed under section 232.28, alleging
15 a child has committed a delinquent act, the alleged victim may
16 file a signed victim impact statement with the juvenile court.

17 2. The victim impact statement shall be considered by the
18 court and the juvenile court officer handling the complaint in
19 any proceeding or informal adjustment associated with the
20 complaint.

21 3. Unless the matter is disposed of at the preliminary
22 inquiry conducted by the intake officer under section 232.28,
23 the victim may also be allowed to orally present the victim
24 impact statement.

25 Sec. 24. NEW SECTION. 915.27 SEXUAL ASSAULT BY JUVENILE.

26 A victim of a sexual assault by a juvenile adjudicated to
27 have committed the assault is entitled to the rights listed in
28 sections 915.40 through 915.44.

29 Sec. 25. NEW SECTION. 915.28 RESTITUTION FOR DELINQUENT
30 ACTS OF JUVENILE.

31 1. If a judge of a juvenile court finds that a juvenile
32 has committed a delinquent act and requires the juvenile to
33 compensate the victim of that act for losses due to the
34 delinquent act of the juvenile, the juvenile shall make such
35 restitution according to a schedule established by the judge

1 from funds earned by the juvenile pursuant to employment
2 engaged in by the juvenile at the time of disposition.

3 2. If a juvenile enters into an informal adjustment
4 agreement pursuant to section 232.29 to make such restitution,
5 the juvenile shall make such restitution according to a
6 schedule which shall be a part of the informal adjustment
7 agreement.

8 3. The restitution shall be made under the direction of a
9 juvenile court officer working under the direction of the
10 juvenile court.

11 a. In those counties where the county maintains an office
12 to provide juvenile victim restitution services, the juvenile
13 court officer may use that office's services.

14 b. If the juvenile is not employed, the juvenile's
15 juvenile court officer shall make a reasonable effort to find
16 private or other public employment for the juvenile.

17 c. If the juvenile offender does not have employment at
18 the time of disposition and private or other public employment
19 is not obtained in spite of the efforts of the juvenile's
20 juvenile court officer, the judge may direct the juvenile
21 offender to perform work pursuant to section 232.52,
22 subsection 2, paragraph "a", and arrange for compensation of
23 the juvenile in the manner provided for under chapter 232A.

24 Sec. 26. NEW SECTION. 915.29 NOTIFICATION OF VICTIM OF
25 JUVENILE BY DEPARTMENT OF HUMAN SERVICES.

26 The department of human services shall notify a registered
27 victim regarding a juvenile adjudicated delinquent for a
28 violent crime, committed to the custody of the department of
29 human services, and placed at the state training school at
30 Eldora or Toledo, of the following:

31 1. The date on which the juvenile is expected to be
32 temporarily released from the custody of the department of
33 human services, and whether the juvenile is expected to return
34 to the community where the registered victim resides.

35 2. The juvenile's escape from custody.

1 3. The recommendation by the department to consider the
2 juvenile for release or placement.

3 4. The date on which the juvenile is expected to be
4 released from a facility pursuant to a plan of placement.

5 Sec. 27. Sections 915.35 through 915.38, as enacted in
6 this Act, are enacted as a new subchapter of chapter 915,
7 entitled "Protections for Children and Other Special Victims".

8 Sec. 28. NEW SECTION. 915.35 CHILD VICTIM SERVICES.

9 1. As used in this section, "victim" means a child under
10 the age of eighteen who has been sexually abused or subjected
11 to any other unlawful sexual conduct under chapter 709 or 726
12 or who has been the subject of a forcible felony.

13 2. A professional licensed or certified by the state to
14 provide immediate or short-term medical services or mental
15 health services to a victim may provide the services without
16 the prior consent or knowledge of the victim's parents or
17 guardians.

18 3. Such a professional shall notify the victim if the
19 professional is required to report an incidence of child abuse
20 involving the victim pursuant to section 232.69.

21 To the greatest extent possible, a multidisciplinary team
22 involving the county attorney, law enforcement personnel,
23 community-based child advocacy organizations, and personnel of
24 the department of human services shall be utilized in
25 investigating and prosecuting cases involving a violation of
26 chapter 709 or 726 or other crime committed upon a victim as
27 defined in subsection 1. A multidisciplinary team may also
28 consult with or include juvenile court officers, medical and
29 mental health professionals, court-appointed special
30 advocates, guardians ad litem, and members of a
31 multidisciplinary team created by the department of human
32 services for child abuse investigations. The department of
33 justice may provide training and other assistance to support
34 the activities of a multidisciplinary team referred to in this
35 subsection.

1 Sec. 29. NEW SECTION. 915.36 PROTECTION OF CHILD
2 VICTIM'S PRIVACY.

3 1. Prior to an arrest or the filing of an information or
4 indictment, whichever occurs first, against a person charged
5 with a violation of chapter 709, section 726.2, or section
6 728.12, committed with or on a child, as defined in section
7 702.5, the identity of the child or any information reasonably
8 likely to disclose the identity of the child shall not be
9 released to the public by any public employee except as
10 authorized by the court of jurisdiction.

11 2. In order to protect the welfare of the child, the name
12 of the child and identifying biographical information shall
13 not appear on the information or indictment or any other
14 public record. Instead, a nondescriptive designation shall
15 appear on all public records. The nonpublic records
16 containing the child's name and identifying biographical
17 information shall be kept by the court. This subsection does
18 not apply to the release of information to an accused or
19 accused's counsel; however, the use or release of this
20 information by the accused or accused's counsel for purposes
21 other than the preparation of defense constitutes contempt.

22 3. A person who willfully violates this section or who
23 willfully neglects or refuses to obey a court order made
24 pursuant to this section commits contempt.

25 4. A release of information in violation of this section
26 does not bar prosecution or provide grounds for dismissal of
27 charges.

28 Sec. 30. NEW SECTION. 915.37 GUARDIAN AD LITEM FOR
29 PROSECUTING CHILD WITNESSES.

30 A prosecuting witness who is a child, as defined in section
31 702.5, in a case involving a violation of chapter 709 or
32 section 726.2, 726.3, 726.6, or 728.12, is entitled to have
33 the witness's interests represented by a guardian ad litem at
34 all stages of the proceedings arising from such violation.
35 The guardian ad litem shall be a practicing attorney and shall

1 be designated by the court after due consideration is given to
2 the desires and needs of the child and the compatibility of
3 the child and the child's interests with the prospective
4 guardian ad litem. If a guardian ad litem has previously been
5 appointed for the child in a proceeding under chapter 232 or a
6 proceeding in which the juvenile court has waived jurisdiction
7 under section 232.45, the court shall appoint the same
8 guardian ad litem under this section. The guardian ad litem
9 shall receive notice of and may attend all depositions,
10 hearings, and trial proceedings to support the child and
11 advocate for the protection of the child but shall not be
12 allowed to separately introduce evidence or to directly
13 examine or cross-examine witnesses. However, the guardian ad
14 litem shall file reports to the court as required by the
15 court. If a prosecuting witness is fourteen, fifteen,
16 sixteen, or seventeen years of age, and would be entitled to
17 the appointment of a guardian ad litem if the prosecuting
18 witness were a child, the court may appoint a guardian ad
19 litem if the requirements for guardians ad litem in this
20 section are met, and the guardian ad litem agrees to
21 participate without compensation.

22 References in this section to a guardian ad litem shall be
23 interpreted to include references to a court-appointed special
24 advocate as defined in section 232.2, subsection 9.

25 Sec. 31. NEW SECTION. 915.38 TELEVISED, VIDEOTAPED, AND
26 RECORDED EVIDENCE -- LIMITED COURT TESTIMONY -- MINORS AND
27 OTHERS.

28 1. Upon its own motion or upon motion of any party, a
29 court may protect a minor, as defined in section 599.1, from
30 trauma caused by testifying in the physical presence of the
31 defendant where it would impair the minor's ability to
32 communicate, by ordering that the testimony of the minor be
33 taken in a room other than the courtroom and be televised by
34 closed-circuit equipment for viewing in the courtroom.
35 However, such an order shall be entered only upon a specific

1 finding by the court that such measures are necessary to
2 protect the minor from trauma. Only the judge, prosecuting
3 attorney, defendant's attorney, persons necessary to operate
4 the equipment, and any person whose presence, in the opinion
5 of the court, would contribute to the welfare and well-being
6 of the minor may be present in the room with the minor during
7 the minor's testimony. The judge shall inform the minor that
8 the defendant will not be present in the room in which the
9 minor will be testifying but that the defendant will be
10 viewing the minor's testimony through closed-circuit
11 television.

12 During the minor's testimony the defendant shall remain in
13 the courtroom and shall be allowed to communicate with the
14 defendant's counsel in the room where the minor is testifying
15 by an appropriate electronic method.

16 In addition, upon a finding of necessity, the court may
17 allow the testimony of a victim or witness with a mental
18 illness, mental retardation, or other developmental disability
19 to be taken as provided in this subsection, regardless of the
20 age of the victim or witness.

21 2. The court may, upon its own motion or upon motion of a
22 party, order that the testimony of a minor, as defined in
23 section 599.1, be taken by recorded deposition for use at
24 trial, pursuant to rule of criminal procedure 12(2)(b). In
25 addition to requiring that such testimony be recorded by
26 stenographic means, the court may on motion and hearing, and
27 upon a finding that the minor is unavailable as provided in
28 Iowa rules of evidence 804(a), order the videotaping of the
29 minor's testimony for viewing in the courtroom by the court.
30 The videotaping shall comply with the provisions of rule of
31 criminal procedure 12(2)(b), and shall be admissible as
32 evidence in the trial. In addition, upon a finding of
33 necessity, the court may allow the testimony of a victim or
34 witness with a mental illness, mental retardation, or other
35 developmental disability to be taken as provided in this

1 subsection, regardless of the age of the victim or witness.

2 3. The court may upon motion of a party admit into
3 evidence the recorded statements of a child, as defined in
4 section 702.5, describing sexual contact performed with or on
5 the child, not otherwise admissible in evidence by statute or
6 court rule if the court determines that the recorded
7 statements substantially comport with the requirements for
8 admission under Iowa rules of evidence 803(24) or 804(b)(5).

9 4. A court may, upon its own motion or upon the motion of
10 a party, order the court testimony of a child to be limited in
11 duration in accordance with the developmental maturity of the
12 child. The court may consider or hear expert testimony in
13 order to determine the appropriate limitation on the duration
14 of a child's testimony. However, the court shall, upon
15 motion, limit the duration of a child's uninterrupted
16 testimony to one hour, at which time the court shall allow the
17 child to rest before continuing to testify.

18 Sec. 32. Sections 915.40 through 915.44, as enacted in
19 this Act, are enacted as a new subchapter of chapter 915,
20 entitled "Victims of Sexual Assault".

21 Sec. 33. NEW SECTION. 915.40 DEFINITIONS.

22 As used in this subchapter, unless the context otherwise
23 requires:

24 1. "AIDS" means acquired immune deficiency syndrome as
25 defined by the centers for disease control of the United
26 States department of health and human services.

27 2. "Convicted offender" means a person convicted of a
28 sexual assault or a juvenile who has been adjudicated
29 delinquent for an act of sexual assault.

30 3. "Department" means the Iowa department of public
31 health.

32 4. "Division" means the crime victims assistance division
33 of the office of the attorney general.

34 5. "HIV" means the human immunodeficiency virus identified
35 as the causative agent of AIDS.

1 6. "HIV-related test" means a test for the antibody or
2 antigen to HIV.

3 7. "Petitioner" means a person who is the victim of a
4 sexual assault which resulted in alleged significant exposure
5 or the parent, guardian, or custodian of a victim if the
6 victim is a minor, for whom the county attorney files a
7 petition with the district court to require the convicted
8 offender to undergo an HIV-related test.

9 8. "Sexual assault" means sexual abuse as defined in
10 section 709.1, or any other sexual offense by which a victim
11 has allegedly had sufficient contact with a convicted offender
12 to be deemed a significant exposure.

13 9. "Significant exposure" means contact of the victim's
14 ruptured or broken skin or mucous membranes with the blood or
15 bodily fluids, other than tears, saliva, or perspiration of
16 the convicted offender. "Significant exposure" is presumed to
17 have occurred when there is a showing that there was
18 penetration of the convicted offender's penis into the
19 victim's vagina or anus, contact between the mouth and
20 genitalia, or contact between the genitalia of the offender
21 and the genitalia or anus of the victim.

22 10. "Victim counselor" means a person who is engaged in a
23 crime victim center as defined in section 915.20A, who is
24 certified as a counselor by the crime victim center, and who
25 has completed at least twenty hours of training provided by
26 the Iowa coalition against sexual assault or a similar agency.

27 Sec. 34. NEW SECTION. 915.41 MEDICAL EXAMINATION COSTS.

28 The cost of a medical examination for the purpose of
29 gathering evidence and the cost of treatment for the purpose
30 of preventing venereal disease shall be paid from the fund
31 established in section 915.94.

32 Sec. 35. NEW SECTION. 915.42 RIGHT TO HIV-TESTING OF
33 CONVICTED ASSAILANT.

34 1. Unless a petitioner chooses to be represented by
35 private counsel, the county attorney shall represent the

1 victim's interest in all proceedings under this subchapter.

2 2. If a person is convicted of sexual assault or
3 adjudicated delinquent for an act of sexual assault, the
4 county attorney, if requested by the petitioner, shall
5 petition the court for an order requiring the convicted
6 offender to submit to an HIV-related test, provided that all
7 of the following conditions are met:

8 a. The sexual assault for which the offender was convicted
9 or adjudicated delinquent included sufficient contact between
10 the victim and the convicted offender to be deemed a
11 significant exposure pursuant to section 915.40.

12 b. The authorized representative of the petitioner, the
13 county attorney, or the court sought to obtain written
14 informed consent from the convicted offender to the testing.

15 c. Written informed consent was not provided by the
16 convicted offender.

17 3. Upon receipt of the petition filed under subsection 2,
18 the court shall:

19 a. Prior to the scheduling of a hearing, refer the victim
20 for counseling by a victim counselor or a person requested by
21 the victim who is authorized to provide the counseling
22 required pursuant to section 141.22, regarding the nature,
23 reliability, and significance of the HIV-related test and of
24 the serologic status of the convicted offender.

25 b. Schedule a hearing to be held as soon as is
26 practicable.

27 c. Cause written notice to be served on the convicted
28 offender who is the subject of the proceeding, in accordance
29 with the rules of civil procedure relating to the service of
30 original notice, or if the convicted offender is represented
31 by legal counsel, provide written notice to the convicted
32 offender and the convicted offender's legal counsel.

33 d. Provide for the appointment of legal counsel for a
34 convicted offender if the convicted offender desires but is
35 financially unable to employ counsel.

1 e. Furnish legal counsel with copies of the petition.
2 4. a. A hearing under this section shall be conducted in
3 an informal manner consistent with orderly procedure and in
4 accordance with the Iowa rules of evidence. The hearing shall
5 be limited in scope to the review of questions of fact only as
6 to the issue of whether the sexual assault for which the
7 offender was convicted or adjudicated delinquent provided
8 sufficient contact between the victim and the convicted
9 offender to be deemed a significant exposure and to questions
10 of law.
11 b. In determining whether the contact should be deemed a
12 significant exposure, the court shall base the determination
13 on the testimony presented during the proceedings on the
14 sexual assault charge, the minutes of the testimony or other
15 evidence included in the court record, or if a plea of guilty
16 was entered, based upon the complaint or upon testimony
17 provided during the hearing.
18 c. The victim may testify at the hearing but shall not be
19 compelled to testify. The court shall not consider the
20 refusal of a victim to testify at the hearing as material to
21 the court's decision regarding issuance of an order requiring
22 testing.
23 d. The hearing shall be in camera unless the convicted
24 offender and the petitioner agree to a hearing in open court
25 and the court approves. The report of the hearing proceedings
26 shall be sealed and no report of the proceedings shall be
27 released to the public, except with the permission of all
28 parties and the approval of the court.
29 e. Stenographic notes or electronic or mechanical
30 recordings shall be taken of all court hearings unless waived
31 by the parties.
32 5. Following the hearing, the court shall require a
33 convicted offender to undergo an HIV-related test only if the
34 petitioner proves all of the following by a preponderance of
35 the evidence:

1 a. The sexual assault constituted a significant exposure.

2 b. An authorized representative of the petitioner, the
3 county attorney, or the court sought to obtain written
4 informed consent from the convicted offender.

5 c. Written informed consent was not provided by the
6 convicted offender.

7 6. A convicted offender who is required to undergo an HIV-
8 related test may appeal to the court for review of questions
9 of law only, but may appeal questions of fact if the findings
10 of fact are clearly erroneous.

11 Sec. 36. NEW SECTION. 915.43 TESTING, REPORTING, AND
12 COUNSELING -- PENALTIES.

13 1. The physician or other practitioner who orders the test
14 of a convicted offender for HIV under this subchapter shall
15 disclose the results of the test to the convicted offender and
16 to the victim counselor or a person requested by the victim
17 who is authorized to provide the counseling required pursuant
18 to section 141.22, who shall disclose the results to the
19 petitioner.

20 2. All testing under this chapter shall be accompanied by
21 pretest and posttest counseling as required under section
22 141.22.

23 3. Subsequent testing arising out of the same incident of
24 exposure shall be conducted in accordance with the procedural
25 and confidentiality requirements of this subchapter.

26 4. Results of a test performed under this subchapter,
27 except as provided in subsection 14, shall be disclosed only
28 to the physician or other practitioner who orders the test of
29 the convicted offender, the convicted offender, the victim,
30 the victim counselor or person requested by the victim who is
31 authorized to provide the counseling required pursuant to
32 section 141.22, the physician of the victim if requested by
33 the victim, and the parent, guardian, or custodian of the
34 victim, if the victim is a minor. Results of a test performed
35 under this subchapter shall not be disclosed to any other

1 person without the written informed consent of the convicted
2 offender. A person to whom the results of a test have been
3 disclosed under this subchapter is subject to the
4 confidentiality provisions of section 141.23, and shall not
5 disclose the results to another person except as authorized by
6 section 141.23, subsection 1.

7 5. If testing is ordered under this subchapter, the court
8 shall also order periodic testing of the convicted offender
9 during the period of incarceration, probation, or parole if
10 the physician or other practitioner who ordered the initial
11 test of the convicted offender certifies that, based upon
12 prevailing scientific opinion regarding the maximum period
13 during which the results of an HIV-related test may be
14 negative for a person after being HIV-infected, additional
15 testing is necessary to determine whether the convicted
16 offender was HIV-infected at the time the sexual assault was
17 perpetrated. The results of the test conducted pursuant to
18 this subsection shall be released only to the physician or
19 other practitioner who orders the test of the convicted
20 offender, the convicted offender, the victim counselor or
21 person requested by the victim who is authorized to provide
22 the counseling required pursuant to section 141.22, who shall
23 disclose the results to the petitioner, and the physician of
24 the victim, if requested by the victim.

25 6. The court shall not consider the disclosure of an
26 alleged offender's serostatus to an alleged victim, prior to
27 conviction, as a basis for a reduced plea or reduced sentence.

28 7. The fact that an HIV-related test was performed under
29 this subchapter and the results of the test shall not be
30 included in the convicted offender's medical or criminal
31 record unless otherwise included in department of corrections
32 records.

33 8. The fact that an HIV-related test was performed under
34 this subchapter and the results of the test shall not be used
35 as a basis for further prosecution of a convicted offender in

1 relation to the incident which is the subject of the testing,
2 to enhance punishments, or to influence sentencing.

3 9. If the serologic status of a convicted offender, which
4 is conveyed to the victim, is based upon an HIV-related test
5 other than a test which is authorized as a result of the
6 procedures established in this subchapter, legal protections
7 which attach to such testing shall be the same as those which
8 attach to an initial test under this subchapter, and the
9 rights to a predisclosure hearing and to appeal provided under
10 section 915.42 shall apply.

11 10. HIV-related testing required under this subchapter
12 shall be conducted by the state hygienic laboratory.

13 11. Notwithstanding the provisions of this subchapter
14 requiring initial testing, if a petition is filed with the
15 court under section 915.42 requesting an order for testing and
16 the order is granted, and if a test has previously been
17 performed on the convicted offender while under the control of
18 the department of corrections, the test results shall be
19 provided in lieu of the performance of an initial test of the
20 convicted offender, in accordance with this subchapter.

21 12. Test results shall not be disclosed to a convicted
22 offender who elects against disclosure.

23 13. In addition to the counseling received by a victim,
24 referral to appropriate health care and support services shall
25 be provided.

26 14. In addition to persons to whom disclosure of the
27 results of a convicted offender's HIV-related test results is
28 authorized under this subchapter, the victim may also disclose
29 the results to the victim's spouse, persons with whom the
30 victim has engaged in vaginal, anal, or oral intercourse
31 subsequent to the sexual assault, or members of the victim's
32 family within the third degree of consanguinity.

33 15. A person to whom disclosure of a convicted offender's
34 HIV-related test results is authorized under this subchapter
35 shall not disclose the results to any other person for whom

1 disclosure is not authorized under this subchapter. A person
2 who intentionally or recklessly makes an unauthorized
3 disclosure in violation of this subsection is subject to a
4 civil penalty of one thousand dollars. The attorney general
5 or the attorney general's designee may maintain a civil action
6 to enforce this subchapter. Proceedings maintained under this
7 subsection shall provide for the anonymity of the test subject
8 and all documentation shall be maintained in a confidential
9 manner.

10 Sec. 37. NEW SECTION. 915.44 POLYGRAPH EXAMINATIONS OF
11 VICTIMS OR WITNESSES -- LIMITATIONS.

12 1. A criminal or juvenile justice agency shall not require
13 a person claiming to be a victim of sexual assault or claiming
14 to be a witness regarding the sexual assault of another person
15 to submit to a polygraph or similar examination as a
16 precondition to the agency conducting an investigation into
17 the matter.

18 2. An agency wishing to perform a polygraph examination of
19 a person claiming to be a victim or witness of sexual assault
20 shall inform the person of the following:

21 a. That taking the polygraph examination is voluntary.

22 b. That the results of the examination are not admissible
23 in court.

24 c. That the person's decision to submit or refuse a
25 polygraph examination will not be the sole basis for a
26 decision by the agency not to investigate the matter.

27 3. An agency which declines to investigate an alleged case
28 of sexual assault following a decision by a person claiming to
29 be a victim not to submit to a polygraph examination shall
30 provide to that person, in writing, the reasons why the agency
31 did not pursue the investigation at the request of the person.

32 Sec. 38. Section 915.50, as enacted in this Act, is
33 enacted as a new subchapter of chapter 915 entitled "Victims
34 of Domestic Abuse".

35 Sec. 39. NEW SECTION. 915.50 GENERAL RIGHTS OF DOMESTIC

1 ABUSE VICTIMS.

2 In addition to other victim rights provided in this
3 chapter, victims of domestic abuse shall have the following
4 rights:

5 1. The right to file a pro se petition for relief from
6 domestic abuse in the district court, pursuant to sections
7 236.3 through 236.10.

8 2. The right, pursuant to section 236.12, for law
9 enforcement to remain on the scene, to assist the victim in
10 leaving the scene, to transport the victim to medical care,
11 and to provide the person with a written statement of victim
12 rights and information about domestic abuse shelters, support
13 services, and crisis lines.

14 3. The right to receive a criminal no-contact order upon a
15 finding of probable cause, pursuant to section 236.14.

16 Sec. 40. Sections 915.80 through 915.94, as enacted in
17 this Act, are enacted as a new subchapter of chapter 915,
18 entitled "Victim Compensation".

19 Sec. 41. NEW SECTION. 915.80 DEFINITIONS.

20 As used in this subchapter, unless the context otherwise
21 requires:

22 1. "Compensation" means moneys awarded by the department
23 as authorized in this subchapter.

24 2. "Crime" means conduct that occurs or is attempted in
25 this state, poses a substantial threat of personal injury or
26 death, and is punishable as a felony or misdemeanor, or would
27 be so punishable but for the fact that the person engaging in
28 the conduct lacked the capacity to commit the crime under the
29 laws of this state. "Crime" does not include conduct arising
30 out of the ownership, maintenance, or use of a motor vehicle,
31 motorcycle, motorized bicycle, train, boat, or aircraft except
32 for violations of section 321.261, 321.277, 321J.2, 462A.14,
33 or 707.6A, or when the intention is to cause personal injury
34 or death. A license revocation under section 321J.9 or
35 321J.12 shall be considered by the department as evidence of a

1 violation of section 321J.2 for the purposes of this
2 subchapter.

3 3. "Department" means the department of justice.

4 4. "Dependent" means a person wholly or partially
5 dependent upon a victim for care or support and includes a
6 child of the victim born after the victim's death.

7 5. "Secondary victim" means the victim's spouse, children,
8 parents, and siblings, and any person who resides in the
9 victim's household at the time of the crime or at the time of
10 the discovery of the crime. Secondary victim does not include
11 persons who are the survivors of a victim who dies as a result
12 of a crime.

13 6. "Victim" means a person who suffers personal injury or
14 death as a result of any of the following:

15 a. A crime.

16 b. The good faith effort of a person attempting to prevent
17 a crime.

18 c. The good faith effort of a person to apprehend a person
19 suspected of committing a crime.

20 Sec. 42. NEW SECTION. 915.81 AWARD OF COMPENSATION.

21 The department shall award compensation authorized by this
22 subchapter if the department is satisfied that the
23 requirements for compensation have been met.

24 Sec. 43. NEW SECTION. 915.82 CRIME VICTIM ASSISTANCE
25 BOARD.

26 1. A crime victim assistance board is established, and
27 shall consist of the following members to be appointed
28 pursuant to rules adopted by the department:

29 a. A county attorney or assistant county attorney.

30 b. Two persons engaged full-time in law enforcement.

31 c. A public defender or an attorney practicing primarily
32 in criminal defense.

33 d. A hospital medical staff person involved with emergency
34 services.

35 e. Two public members who have received victim services.

1 f. A victim service provider.

2 g. A person licensed pursuant to chapter 154B or 154C.

3 h. A person representing the elderly.

4 Board members shall be reimbursed for expenses actually and
5 necessarily incurred in the discharge of their duties.

6 2. The board shall adopt rules pursuant to chapter 17A
7 relating to program policies and procedures.

8 3. A victim aggrieved by the denial or disposition of the
9 victim's claim may appeal to the district court within thirty
10 days of receipt of the board's decision.

11 Sec. 44. NEW SECTION. 915.83 DUTIES OF DEPARTMENT.

12 The department shall:

13 1. Adopt rules pursuant to chapter 17A relating to the
14 administration of the crime victim compensation program,
15 including the filing of claims pursuant to the program, and
16 the hearing and disposition of the claims.

17 2. Hear claims, determine the results relating to claims,
18 and reinvestigate and reopen cases as necessary.

19 3. Publicize through the department, county sheriff
20 departments, municipal police departments, county attorney
21 offices, and other public or private agencies, the existence
22 of the crime victim compensation program, including the
23 procedures for obtaining compensation under the program.

24 4. Request from the department of human services, the
25 department of workforce development and its division of
26 industrial services, the department of public safety, the
27 county sheriff departments, the municipal police departments,
28 the county attorneys, or other public authorities or agencies
29 reasonable assistance or data necessary to administer the
30 crime victim compensation program.

31 5. Require medical examinations of victims as needed. The
32 victim shall be responsible for the cost of the medical
33 examination if compensation is made. The department shall be
34 responsible for the cost of the medical examination from funds
35 appropriated to the department for the crime victim

1 compensation program if compensation is not made to the victim
2 unless the cost of the examination is payable as a benefit
3 under an insurance policy or subscriber contract covering the
4 victim or the cost is payable by a health maintenance
5 organization.

6 6. Receive moneys collected pursuant to section 904.702
7 for the purpose of compliance with Pub. L. No. 98-473.

8 Sec. 45. NEW SECTION. 915.84 APPLICATION FOR
9 COMPENSATION.

10 1. To claim compensation under the crime victim
11 compensation program, a person shall apply in writing on a
12 form prescribed by the department and file the application
13 with the department within two years after the date of the
14 crime, the discovery of the crime, or the date of death of the
15 victim.

16 2. A person is not eligible for compensation unless the
17 crime was reported to the local police department or county
18 sheriff department within seventy-two hours of its occurrence.
19 If the crime cannot reasonably be reported within that time
20 period, the crime shall have been reported within seventy-two
21 hours of the time a report can reasonably be made. The
22 department may waive this requirement if good cause is shown.

23 3. Notwithstanding subsection 2, a victim under the age of
24 eighteen or dependent adult as defined in section 235B.1 who
25 has been sexually abused or subjected to any other unlawful
26 sexual conduct under chapter 709 or 726 or who has been the
27 subject of a forcible felony is not required to report the
28 crime to the local police department or county sheriff
29 department to be eligible for compensation if the crime was
30 allegedly committed upon a child by a person responsible for
31 the care of a child, as defined in section 232.68, subsection
32 7, or upon a dependent adult by a caretaker as defined in
33 section 235B.1, and was reported to an employee of the
34 department of human services and the employee verifies the
35 report to the department.

1 4. When immediate or short-term medical services or mental
2 health services are provided to a victim under section 915.35,
3 the department of human services shall file the claim for
4 compensation as provided in subsection 3 for the victim.

5 5. When immediate or short-term medical services to a
6 victim are provided pursuant to section 915.35 by a
7 professional licensed or certified by the state to provide
8 such services, the professional shall file the claim for
9 compensation, unless the department of human services is
10 required to file the claim under this section. The
11 requirement to report the crime to the local police department
12 or county sheriff department under subsection 2 does not apply
13 to this subsection.

14 6. The victim shall cooperate with reasonable requests by
15 the appropriate law enforcement agencies in the investigation
16 or prosecution of the crime.

17 Sec. 46. NEW SECTION. 915.85 COMPENSATION PAYABLE.

18 The department may order the payment of compensation:

- 19 1. To or for the benefit of the person filing the claim.
- 20 2. To a person responsible for the maintenance of the
21 victim who has suffered pecuniary loss or incurred expenses as
22 a result of personal injury to the victim.
- 23 3. To or for the benefit of one or more dependents of the
24 victim, in the case of death of the victim. If two or more
25 dependents are entitled to compensation, the compensation may
26 be apportioned by the department as the department determines
27 to be fair and equitable among the dependents.

28 4. To a victim of an act committed outside this state who
29 is a resident of this state, if the act would be compensable
30 had it occurred within this state and the act occurred in a
31 state that does not have an eligible crime victim compensation
32 program, as defined in the federal Victims of Crime Act of
33 1984, Pub. L. 98-473, section 1403(b), as amended and codified
34 in 42 U.S.C. § 10602(b).

35 5. To or for the benefit of a resident of this state who

1 is a victim of an act of terrorism as defined in 18 U.S.C. §
2 2331, which occurred outside of the United States.

3 Sec. 47. NEW SECTION. 915.86 COMPUTATION OF
4 COMPENSATION.

5 The department shall award compensation, as appropriate,
6 for any of the following economic losses incurred as a direct
7 result of an injury to or death of the victim:

8 1. Reasonable charges incurred for medical care not to
9 exceed ten thousand five hundred dollars. Reasonable charges
10 incurred for mental health care not to exceed three thousand
11 dollars which includes services provided by a psychologist
12 licensed under chapter 154B, a person holding at least a
13 master's degree in social work or counseling and guidance, or
14 a victim counselor as defined in section 915.20A.

15 2. Loss of income from work the victim would have
16 performed and for which the victim would have received
17 remuneration if the victim had not been injured, not to exceed
18 six thousand dollars.

19 3. Reasonable replacement value of clothing that is held
20 for evidentiary purposes not to exceed one hundred dollars.

21 4. Reasonable funeral and burial expenses not to exceed
22 five thousand dollars.

23 5. Loss of support for dependents resulting from death or
24 a period of disability of the victim of sixty days or more not
25 to exceed two thousand dollars per dependent or a total of six
26 thousand dollars.

27 6. In the event of a victim's death, reasonable charges
28 incurred for counseling the victim's spouse, children,
29 parents, siblings, or persons cohabiting with or related by
30 blood or affinity to the victim if the counseling services are
31 provided by a psychologist licensed under chapter 154B, a
32 victim counselor as defined in section 915.20A, subsection 1,
33 or an individual holding at least a master's degree in social
34 work or counseling and guidance, and reasonable charges
35 incurred by such persons for medical care counseling provided

1 by a psychiatrist licensed under chapter 147 or 150A. The
2 allowable charges under this subsection shall not exceed three
3 thousand dollars per person or a total of six thousand dollars
4 per victim death.

5 7. In the event of a victim's death, reasonable charges
6 incurred for health care for the victim's spouse, children,
7 parents, siblings, or persons related by blood or affinity to
8 the victim not to exceed three thousand dollars per survivor.

9 8. Reasonable expenses incurred for cleaning the scene of
10 a homicide, if the scene is a residence, not to exceed one
11 thousand dollars.

12 9. Reasonable charges incurred for mental health care for
13 secondary victims which include the services provided by a
14 psychologist licensed under chapter 154B, a person holding at
15 least a master's degree in social work, counseling, or a
16 related field, a victim counselor as defined in section
17 915.20A, or a psychiatrist licensed under chapter 147, 148, or
18 150A. The allowable charges under this subsection shall not
19 exceed one thousand dollars per secondary victim or a total of
20 six thousand dollars.

21 Sec. 48. NEW SECTION. 915.87 REDUCTIONS AND
22 DISQUALIFICATIONS.

23 Compensation is subject to reduction and disqualification
24 as follows:

25 1. Compensation shall be reduced by the amount of any
26 payment received, or to be received, as a result of the injury
27 or death:

28 a. From or on behalf of, a person who committed the crime
29 or who is otherwise responsible for damages resulting from the
30 crime.

31 b. From an insurance payment or program, including but not
32 limited to workers' compensation or unemployment compensation.

33 c. From public funds.

34 d. As an emergency award under section 915.91.

35 2. Compensation shall not be made when the bodily injury

1 or death for which a benefit is sought was caused by any of
2 the following:

- 3 a. Consent, provocation, or incitement by the victim.
- 4 b. The victim assisting, attempting, or committing a
5 criminal act.

6 Sec. 49. NEW SECTION. 915.88 COMPENSATION WHEN MONEY
7 INSUFFICIENT.

8 Notwithstanding this subchapter, a victim otherwise
9 qualified for compensation under the crime victim compensation
10 program is not entitled to the compensation when there is
11 insufficient money from the appropriation for the program to
12 pay the compensation.

13 Sec. 50. NEW SECTION. 915.89 ERRONEOUS OR FRAUDULENT
14 PAYMENT -- PENALTY.

15 1. If a payment or overpayment of compensation is made
16 because of clerical error, mistaken identity, innocent
17 misrepresentation by or on behalf of the recipient, or other
18 circumstances of a similar nature, not induced by fraud by or
19 on behalf of the recipient, the recipient is liable for
20 repayment of the compensation. The department may waive,
21 decrease, or adjust the amount of the repayment of the
22 compensation. However, if the department does not notify the
23 recipient of the erroneous payment or overpayment within one
24 year of the date the compensation was made, the recipient is
25 not liable for the repayment of the compensation.

26 2. If a payment or overpayment has been induced by fraud
27 by or on behalf of a recipient, the recipient is liable for
28 repayment of the compensation.

29 Sec. 51. NEW SECTION. 915.90 RELEASE OF INFORMATION.

30 A person in possession or control of investigative or other
31 information pertaining to an alleged crime or a victim filing
32 for compensation shall allow the inspection and reproduction
33 of the information by the department upon the request of the
34 department, to be used only in the administration and
35 enforcement of the crime victim compensation program.

1 Information and records which are confidential under section
2 22.7 and information or records received from the confidential
3 information or records remain confidential under this section.

4 A person does not incur legal liability by reason of
5 releasing information to the department as required under this
6 section.

7 Sec. 52. NEW SECTION. 915.91 EMERGENCY PAYMENT
8 COMPENSATION.

9 If the department determines that compensation may be made
10 and that undue hardship may result to the person if partial
11 immediate payment is not made, the department may order
12 emergency compensation to be paid to the person, not to exceed
13 five hundred dollars.

14 Sec. 53. NEW SECTION. 915.92 RIGHT OF ACTION AGAINST
15 PERPETRATOR -- SUBROGATION.

16 A right of legal action by the victim against a person who
17 has committed a crime is not lost as a consequence of a person
18 receiving compensation under the crime victim compensation
19 program. If a person receiving compensation under the program
20 seeks indemnification which would reduce the compensation
21 under section 915.87, subsection 1, the department is
22 subrogated to the recovery to the extent of payments by the
23 department to or on behalf of the person. The department has
24 a right of legal action against a person who has committed a
25 crime resulting in payment of compensation by the department
26 to the extent of the compensation payment. However, legal
27 action by the department does not affect the right of a person
28 to seek further relief in other legal actions.

29 Sec. 54. NEW SECTION. 915.93 RULEMAKING.

30 The department shall adopt rules pursuant to chapter 17A to
31 implement the procedures for reparation payments with respect
32 to section 915.35 and section 915.84, subsections 3, 4, and 5.

33 Sec. 55. NEW SECTION. 915.94 VICTIM COMPENSATION FUND.

34 A victim compensation fund is established as a separate
35 fund in the state treasury. Moneys deposited in the fund

1 shall be administered by the department and dedicated to and
2 used for the purposes of section 915.41 and this subchapter.
3 In addition, the department may use moneys from the fund for
4 the purposes of section 236.15 and for the award of funds to
5 programs that provide services and support to victims of
6 domestic abuse or sexual assault as provided in chapter 236.
7 Notwithstanding section 8.33, any balance in the fund on June
8 30 of any fiscal year shall not revert to the general fund of
9 the state.

10 Sec. 56. Section 915.100, as enacted in this Act, is
11 enacted as a new subchapter of chapter 915, entitled "Victim
12 Restitution".

13 Sec. 57. NEW SECTION. 915.100 VICTIM RESTITUTION RIGHTS.

14 1. Victims, as defined in section 910.1, have the right to
15 recover pecuniary damages, as defined in section 910.1.

16 2. The right to restitution includes the following:

17 a. In all criminal cases in which there is a plea of
18 guilty, verdict of guilty, or special verdict upon which a
19 judgement of conviction is rendered, the sentencing court
20 shall order that restitution be made by each offender to
21 victims of the offender's criminal activities.

22 b. A judge may require a juvenile who has been found to
23 have committed a delinquent act to compensate the victim of
24 that act for losses due to the act.

25 c. In cases where the act committed by an offender causes
26 the death of another person, in addition to the amount ordered
27 for payment of the victim's pecuniary damages, the court shall
28 also order the offender to pay at least one hundred fifty
29 thousand dollars in restitution to the victim's estate.

30 d. The clerk of court shall forward a copy of the plan of
31 payment or the modified plan of payment to the victim or
32 victims.

33 e. Victims shall be paid in full pursuant to an order of
34 restitution, before fines, penalties, surcharges, crime victim
35 compensation program reimbursement, public agency

1 reimbursement, court costs, correctional fees, court-appointed
2 attorney fees, expenses of a public defender, or contributions
3 to local anticrime organizations are paid.

4 f. A judgment of restitution may be enforced by a victim
5 entitled under the order to receive restitution, or by a
6 deceased victim's estate, in the same manner as a civil
7 judgment.

8 g. A victim in a criminal proceeding who is entitled to
9 restitution under a court order may file a restitution lien.

10 h. If a convicted felon attempts to profit from the
11 commission of the crime, and the attorney general brings an
12 action to recover such profits, the victim may be entitled to
13 funds held in escrow, pursuant to the provisions of section
14 910.15.

15 i. The right to victim restitution for the pecuniary
16 damages incurred by a victim as the result of a crime does not
17 limit or impair the right of the victim to sue and recover
18 damages from the offender in a civil action.

19 Sec. 58. Section 13.31, subsections 2 and 5, Code 1997,
20 are amended to read as follows:

21 2. Administer the state crime victim compensation program
22 as provided in chapter ~~912~~ 915.

23 5. Administer payment for sexual abuse medical
24 examinations pursuant to section ~~709-10~~ 915.41.

25 Sec. 59. Section 22.7, subsection 2, Code Supplement 1997,
26 is amended to read as follows:

27 2. Hospital records, medical records, and professional
28 counselor records of the condition, diagnosis, care, or
29 treatment of a patient or former patient or a counselee or
30 former counselee, including outpatient. However, confidential
31 communications between a crime victim and the victim's
32 counselor are not subject to disclosure except as provided in
33 section ~~236A-1~~ 915.20A. However, the Iowa department of
34 public health shall adopt rules which provide for the sharing
35 of information among agencies and providers concerning the

1 maternal and child health program including but not limited to
2 the statewide child immunization information system, while
3 maintaining an individual's confidentiality.

4 Sec. 60. Section 135.11, subsection 24, Code Supplement
5 1997, is amended to read as follows:

6 24. Adopt rules which provide for the testing of a
7 convicted offender for the human immunodeficiency virus
8 pursuant to ~~chapter-709B~~ sections 915.40 through 915.43. The
9 rules shall provide for the provision of counseling, health
10 care, and support services to the victim.

11 Sec. 61. Section 232.28, subsections 10 and 11, Code
12 Supplement 1997, are amended by striking the subsections.

13 Sec. 62. Section 232.28A, subsection 1, paragraph d, Code
14 Supplement 1997, is amended to read as follows:

15 d. To be notified of the person's right to offer a written
16 victim impact statement and to orally present the victim
17 impact statement under ~~sections 232.28-and-910A-5~~ 915.26.

18 Sec. 63. Section 232.147, subsections 2 and 9, Code
19 Supplement 1997, are amended to read as follows:

20 2. Official juvenile court records in cases alleging
21 delinquency, including complaints under section 232.28, shall
22 be public records, subject to sealing under section 232.150.
23 If the court has excluded the public from a hearing under
24 division II of this chapter, the transcript of the proceedings
25 shall not be deemed a public record and inspection and
26 disclosure of the contents of the transcript shall not be
27 permitted except pursuant to court order or unless otherwise
28 provided in this chapter. Complaints under section 232.28
29 shall be released in accordance with ~~section 232.28~~ 915.25.
30 Other official juvenile court records may be released under
31 this section by a juvenile court officer.

32 9. Release of official juvenile court records to a victim
33 of a delinquent act is subject to the provisions of section
34 ~~232.28A~~ 915.25, notwithstanding contrary provisions of this
35 chapter.

1 Sec. 64. Section 235A.15, subsection 2, paragraph e,
2 subparagraph (3), Code Supplement 1997, is amended to read as
3 follows:

4 (3) To the department of justice for the sole purpose of
5 the filing of a claim for restitution or compensation pursuant
6 to ~~section-910A-5~~ sections 915.21 and ~~section-912-47~~
7 ~~subsections-3-through-5~~ 915.84. Data provided pursuant to
8 this subparagraph is subject to the provisions of section
9 ~~912-10~~ 915.90.

10 Sec. 65. Section 235B.6, subsection 2, paragraph e,
11 subparagraph (3), Code Supplement 1997, is amended to read as
12 follows:

13 (3) The department of justice for the sole purpose of the
14 filing of a claim for reparation pursuant to ~~section-910A-5~~
15 sections 915.21 and ~~section-912-47-subsections-3-through-5~~
16 915.84.

17 Sec. 66. Section 236.14, subsection 2, unnumbered
18 paragraph 3, Code 1997, is amended to read as follows:

19 The clerk of the court or other person designated by the
20 court shall provide a copy of this order to the victim
21 pursuant to chapter ~~910A~~ 915. The order has force and effect
22 until it is modified or terminated by subsequent court action
23 in the contempt proceeding or the criminal or juvenile court
24 action and is reviewable in the manner prescribed in section
25 811.2. If a defendant is convicted for, receives a deferred
26 judgment for, or pleads guilty to a violation of section
27 708.2A, the court shall modify the no-contact order issued by
28 the magistrate to provide that the no-contact order shall
29 continue in effect for a period of one year from the date that
30 the judgment is entered or the deferred judgment is granted,
31 regardless of whether the defendant is placed on probation.
32 Upon an application by the state which is filed within ninety
33 days prior to the expiration of the modified no-contact order,
34 the court shall modify and extend the no-contact order for an
35 additional period of one year, if the court finds that the

1 defendant continues to pose a threat to the safety of the
2 victim, persons residing with the victim, or members of the
3 victim's immediate family. The number of modifications
4 extending the no-contact order permitted by this subsection is
5 not limited.

6 Sec. 67. Section 321J.17, subsection 1, Code Supplement
7 1997, is amended to read as follows:

8 1. If the department revokes a person's motor vehicle
9 license or nonresident operating privilege under this chapter,
10 the department shall assess the person a civil penalty of two
11 hundred dollars. The money collected by the department under
12 this section shall be transmitted to the treasurer of state
13 who shall deposit one-half of the money in the separate fund
14 established in section ~~912.14~~ 915.94 and one-half of the money
15 shall be deposited in the general fund of the state. A motor
16 vehicle license or nonresident operating privilege shall not
17 be reinstated until the civil penalty has been paid.

18 Sec. 68. Section 331.653, subsection 65A, Code Supplement
19 1997, is amended to read as follows:

20 65A. Carry out the duties imposed under ~~section-910A-8~~
21 sections 915.11 and 915.16.

22 Sec. 69. Section 331.756, subsection 83A, Code Supplement
23 1997, is amended to read as follows:

24 83A. Carry out the duties imposed under sections ~~910A-27~~
25 ~~910A-57-and-910A-6~~ 915.12 and 915.13.

26 Sec. 70. Section 331.909, subsection 2, Code 1997, is
27 amended to read as follows:

28 2. The activities of a multidisciplinary community
29 services team shall not duplicate the activities of a
30 multidisciplinary team for child abuse under section 235A.13,
31 dependent adult abuse activities under section 235B.6, area
32 education agency activities under section 294A.14, or child
33 victim services provided under section ~~910A-16~~ 915.35.

34 Sec. 71. Section 562A.27A, subsection 3, paragraph a, Code
35 1997, is amended to read as follows:

1 a. The tenant seeks a protective order, restraining order,
2 order to vacate the homestead, or other similar relief
3 pursuant to chapter 236, 598, or ~~910A~~ 915, or any other
4 applicable provision which would apply to the person
5 conducting the activities causing the clear and present
6 danger.

7 Sec. 72. Section 562B.25A, subsection 3, paragraph a, Code
8 1997, is amended to read as follows:

9 a. The tenant seeks a protective order, restraining order,
10 order to vacate the homestead, or other similar relief
11 pursuant to chapter 236, 598, or ~~910A~~ 915, or any other
12 applicable provision which would apply to the person
13 conducting the activities causing the clear and present
14 danger.

15 Sec. 73. Section 602.8108, subsection 3, paragraph b, Code
16 1997, is amended to read as follows:

17 b. Of the amount received from the clerk, the state court
18 administrator shall allocate eighteen percent to be deposited
19 in the fund established in section ~~912.14~~ 915.94 and eighty-
20 two percent to be deposited in the general fund.

21 Sec. 74. Section 622.69, unnumbered paragraph 2, Code
22 1997, is amended to read as follows:

23 Witness fees to be received by an inmate, while in the
24 custody of the department of corrections, shall be applied
25 either toward payment of any restitution owed by the inmate or
26 to the crime victim compensation program established in
27 ~~chapter-912~~ sections 915.80 through 915.94.

28 Sec. 75. Section 809.17, Code 1997, is amended to read as
29 follows:

30 809.17 PROCEEDS APPLIED TO VARIOUS PROGRAMS.

31 Except as provided in section 809.21, proceeds from the
32 disposal of seized property pursuant to this chapter may be
33 transferred in whole or in part to the victim compensation
34 fund created in section ~~912.14~~ 915.94 at the discretion of the
35 recipient agency, political subdivision, or department.

1 Sec. 76. Section 904.108, subsection 6, Code Supplement
2 1997, is amended by striking the subsection.

3 Sec. 77. Section 904.602, subsection 3, Code 1997, is
4 amended to read as follows:

5 3. Information identified in subsection 2 shall not be
6 disclosed or used by any person or agency except for purposes
7 of the administration of the department's programs of services
8 or assistance and shall not, except as otherwise provided in
9 ~~subsection-4~~ this section, be disclosed by the department or
10 be used by persons or agencies outside the department unless
11 they are subject to, or agree to, comply with standards of
12 confidentiality comparable to those imposed on the department
13 by this section.

14 Sec. 78. Section 904.602, Code 1997, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 6A. Information described in subsection 2
17 which pertains to the name and address of the employer of an
18 individual who is receiving or has received services shall be
19 released upon request to an individual for the purpose of
20 executing a judgment resulting from the individual's current
21 or past criminal activity.

22 Sec. 79. Section 904.809, subsection 5, paragraph a,
23 subparagraph (3), Code Supplement 1997, is amended to read as
24 follows:

25 (3) Five percent of the balance to the victim compensation
26 fund created in section ~~912.14~~ 915.94.

27 Sec. 80. Section 232A.4, 709.10, and 709.17, Code 1997,
28 are repealed.

29 Sec. 81. Section 232.28A, Code Supplement 1997, is
30 repealed.

31 Sec. 82. Chapters 709B, 910A, and 912, Code and Code
32 Supplement 1997, are repealed.

33 Sec. 83. The Code editor is directed to correct internal
34 references throughout the Code as necessary in conjunction
35 with the transfer of Code sections to and reenactment of Code

1 sections in Code chapter 915.

2 Sec. 84. EFFECTIVE DATE. This Act takes effect January 1,
3 1999.

4 EXPLANATION

5 This bill creates a new Code chapter combining all existing
6 Code sections pertaining to victim rights. New Code chapter
7 915 contains all provisions from Code chapters 709B, 910A, and
8 912, relating to medical testing for convicted sexual assault
9 assailants, victim registration and notification, and victim
10 compensation. Some technical revisions have been made because
11 of the transfer of Code sections to new subchapters and
12 sections in Code chapter 915. New Code chapter 915 also
13 contains selected provisions from, and references to, other
14 Code chapters.

15 New Code section 915.1 provides that the title is the
16 "Victim Rights Act".

17 New Code sections 915.2 and 915.3 are current Code sections
18 910A.18 and 910A.19.

19 New Code sections 915.10 through 915.23 are a subchapter of
20 proposed Code chapter 915, entitled "Registration,
21 Notification, and Rights in Criminal Proceedings".

22 New Code section 915.10 is current Code section 910A.2,
23 definitions relating to victims. New Code section 915.11 is
24 part of current Code section 910A.8, pertaining to notice to a
25 victim of the right to register as a victim with the county
26 attorney; the remainder of current Code section 910A.8 is
27 contained in new Code section 915.16, relating to
28 notifications that must be made to victims by local
29 correctional institutions.

30 New Code section 915.12 is the combination of current Code
31 sections 910A.2, relating to registration with the county
32 attorney, and 910A.17, regarding the confidentiality of a
33 victim's registration file. New Code sections 915.13, 915.14,
34 and 915.15 correspond to current Code sections 910A.6
35 (notification by the county attorney), 910A.7 (notification by

1 the clerk of the district court), and 910A.7A (notification by
2 the department of justice), respectively. New Code section
3 915.17 is current Code section 910A.9 (notification by the
4 department of corrections), and 904.108, subsection 6
5 (notification of prisoner escape). New Code section 915.18 is
6 current Code section 910A.10 (notification by the board of
7 parole). New Code sections 915.19 and 915.20 are current Code
8 sections 910A.10A (notification by the governor) and 910A.20
9 (right to presence of victim counselor in proceedings related
10 to the offense). New Code section 915.20A is current Code
11 section 236A.1, relating to the victim counselor privilege.

12 New Code section 915.21 contains portions of current Code
13 section 910A.5 relating to victim impact statements; the
14 remainder of current Code section 910A.5 is contained in new
15 Code section 915.72, regarding victim impact statements by
16 victims of juveniles. New Code section 915.22 is the same as
17 current Code section 910A.11, regarding the use of injunctions
18 to protect victims and witnesses. New Code section 915.23 is
19 current Code section 910A.12, relating to the right of
20 witnesses in criminal proceeding not to suffer discrimination
21 from employers.

22 New Code sections 915.24 through 915.29 are a new
23 subchapter of proposed Code chapter 915, entitled "Victims of
24 Juveniles". New Code section 915.24 is substantially the same
25 as current Code section 232.28A, regarding the rights of a
26 victim of a juvenile. New Code section 915.25 is current Code
27 section 232.28, subsection 10, regarding access to certain
28 juvenile court files. New Code section 915.26 is composed of
29 parts of current Code sections 232.28, 232.28A, and 910A.5 and
30 relates to victim impact statements. New Code section 915.27
31 is an entirely new code section, indicating that victims of a
32 sexual assault by a juvenile are entitled to the rights in the
33 previous subchapter in proposed Code chapter 915, regarding
34 the rights of victims of sexual abuse. New Code section
35 915.28 is current Code section 232A.4 regarding restitution by

1 juveniles. New Code section 915.29 is current Code section
2 910A.9A (notification by department of human services).

3 New Code sections 915.35 through 915.38 are a new
4 subchapter of proposed Code chapter 915, entitled "Protections
5 for Witnesses and Other Special Witnesses". New Code section
6 915.35 is current Code section 910A.16, relating to services
7 for child victims of sexual abuse. New Code section 915.36 is
8 current Code section 910A.13, relating to protection of a
9 child victim's privacy. New Code section 915.37 is current
10 Code section 910A.15, relating to appointment of a guardian ad
11 litem for a child victim of sexual abuse. New Code section
12 915.38 is current Code section 910A.14, permitting the use of
13 televised and videotaped testimony in certain circumstances
14 for child and certain other victims.

15 New Code sections 915.40 through 915.44 are a new
16 subchapter of proposed Code chapter 915, entitled "Victims of
17 Sexual Abuse". New Code section 915.40 is current Code
18 section 709B.1, definitions for current Code chapter 709B.
19 New Code sections 915.42 and 915.43 are current Code sections
20 709B.2 and 709B.3, relating to HIV testing of an offender
21 convicted of sexual assault. New Code section 915.41 is
22 current Code section 709.10, relating to payment of medical
23 expenses for a sexual assault victim. New Code section 915.44
24 is current Code section 709.17, relating to the right to
25 refuse a polygraph that is offered as a prerequisite to an
26 investigation of sexual abuse.

27 New Code section 915.50 is a new subchapter of proposed
28 Code chapter 915, entitled "Victims of Domestic Abuse". New
29 Code section 915.50 contains a list of rights for domestic

**HOUSE FILE 2527
FISCAL NOTE**

A fiscal note for House File 2527 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

1 Code chapter 915. The subchapter is entitled "Victim
2 Restitution". The section lists restitution rights available
3 under other Code sections.

4 The bill repeals current Code chapters 709B, 910A, and 912,
5 which have all been transferred to proposed Code chapter 915.
6 The bill makes other technical changes throughout the Code to
7 reflect the new Code section numbers assigned to certain
8 provisions of the Code, with the transfer to Code chapter 915.

9 The bill directs the Code editor to make necessary internal
10 reference corrections throughout the Code, as required because
11 of the transfer of Code sections to new Code chapter 915. The
12 bill contains a delayed effective date of January 1, 1999, to
13 permit the Code editor the time necessary to make such
14 comprehensive changes.

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**HOUSE FILE 2527
FISCAL NOTE**

A fiscal note for House File 2527 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2527 creates a new Code chapter combining all existing Code sections pertaining to victim rights.

FISCAL IMPACT

House File 2527 will have no fiscal impact to the State General Fund.

SOURCES

Department of Human Services
Department of Justice
Department of Public Safety
Iowa Association of Counties
State Public Defender

(LSB 4179hv, DHK)

FILED MARCH 10, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

Churchill, ch
Kreiman
Larson

HSB 561

JUDICIARY
Succeeded by
SF (HF) 752
HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LAMBERTI)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for victim rights, providing for penalties, and
2 an effective date.

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

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1 Section 1. NEW SECTION. 915.1 TITLE. This chapter shall
2 be known and may be cited as "Victim Rights Act".

3 Sec. 2. NEW SECTION. 915.2 IMMUNITY.

4 This chapter does not create a civil cause of action except
5 where expressly stated, and a person is not liable for damages
6 resulting from an act or omission in regard to any
7 responsibility or authority created by this chapter, and such
8 acts or omissions shall not be used in any proceeding for
9 damages. This section does not apply to acts or omissions
10 which constitute a willful and wanton disregard for the rights
11 or safety of another.

12 Sec. 3. NEW SECTION. 915.3 IMMUNITY -- CITIZEN
13 INTERVENTION.

14 Any person who, in good faith and without remuneration,
15 renders reasonable aid or assistance to another against whom a
16 crime is being committed or, if rendered at the scene of the
17 crime, to another against whom a crime has been committed, is
18 not liable for any civil damages for acts or omissions
19 resulting from the aid or assistance, and is eligible to file
20 a claim for reimbursement as a victim under this chapter.

21 Sec. 4. Sections 915.10 through 915.23, as enacted in
22 this Act, are enacted as a new subchapter of chapter 915,
23 entitled "Registration, Notification, and Rights in Criminal
24 Proceedings".

25 Sec. 5. NEW SECTION. 915.10 DEFINITIONS.

26 As used in this subchapter, unless the context otherwise
27 requires:

28 1. "Notification" means mailing by regular mail or
29 providing for hand delivery of appropriate information or
30 papers. However, this notification procedure does not
31 prohibit an agency from also providing appropriate information
32 to a registered victim by telephone.

33 2. "Registered" means having provided the county attorney
34 with the victim's written request for registration and current
35 mailing address and telephone number.

1 3. "Victim" means a person who has suffered physical,
2 emotional, or financial harm as the result of a public
3 offense, other than a simple misdemeanor, committed in this
4 state. "Victim" also includes the immediate family members of
5 a victim who died or was rendered incompetent as a result of
6 the offense or who was under eighteen years of age at the time
7 of the offense.

8 4. "Victim impact statement" means a written or oral
9 presentation to the court by the victim or the victim's
10 representative that indicates the physical, emotional,
11 financial, or other effects of the offense upon the victim.

12 5. "Violent crime" means a forcible felony, as defined in
13 section 702.11, and includes any other felony or aggravated
14 misdemeanor which involved the actual or threatened infliction
15 of physical or emotional injury on one or more persons.

16 Sec. 6. NEW SECTION. 915.11 INITIAL NOTIFICATION BY LAW
17 ENFORCEMENT.

18 A local police department or county sheriff's department
19 shall advise a victim of the right to register with the county
20 attorney, and shall provide a request-for-registration form to
21 each victim.

22 Sec. 7. NEW SECTION. 915.12 REGISTRATION.

23 1. The county attorney shall be the sole registrar of
24 victims under this subchapter.

25 2. A victim may register by filing a written request-for-
26 registration form with the county attorney. The county
27 attorney shall notify the victims in writing and advise them
28 of their registration and rights under this subchapter.

29 3. The county attorney shall provide a registered victim
30 list to the offices, agencies, and departments required to
31 provide information under this subchapter for notification
32 purposes.

33 4. Notwithstanding chapter 22 or any other contrary
34 provision of law, a victim's registration shall be strictly
35 maintained in a separate confidential file, and shall be

1 available only to the offices, agencies, and departments
2 required to provide information under this subchapter.

3 Sec. 8. NEW SECTION. 915.13 NOTIFICATION BY COUNTY
4 ATTORNEY.

5 1. The county attorney shall notify a victim registered
6 with the county attorney's office of the following:

7 a. The scheduled date, time, and place of trial, and the
8 cancellation or postponement of a court proceeding that was
9 expected to require the victim's attendance, in any criminal
10 case relating to the crime for which the person is a
11 registered victim.

12 b. The possibility of assistance through the crime victim
13 compensation program, and the procedures for applying for that
14 assistance.

15 c. The right to restitution for pecuniary losses suffered
16 as a result of crime, and the process for seeking such relief.

17 d. The victim's right to make a victim impact statement,
18 in one or both of the following formats:

19 (1) Written victim impact statement. Notification shall
20 include the procedures for filing such a statement.

21 (2) Oral victim impact statement, delivered in court in
22 the presence of the defendant. The victim shall also be
23 notified of the time and place for such statement.

24 e. The date on which the offender is released on bail or
25 appeal, pursuant to section 811.5.

26 f. Except where the prosecuting attorney determines that
27 disclosure of such information would unreasonably interfere
28 with the investigation, at the request of the registered
29 victim, notice of the status of the investigation shall be
30 provided by law enforcement authorities investigating the
31 case, until the alleged assailant is apprehended or the
32 investigation is closed.

33 g. The right to be informed of any plea agreements related
34 to the crime for which the person is a registered victim.

35 2. The county attorney and the juvenile court shall

1 coordinate efforts so as to prevent duplication of
2 notification under this section and section 915.70.

3 Sec. 9. NEW SECTION. 915.14 NOTIFICATION BY CLERK OF THE
4 DISTRICT COURT.

5 The clerk of the district court shall notify a registered
6 victim of all dispositional orders of the case in which the
7 victim was involved and may advise the victim of any other
8 orders regarding custody or confinement.

9 Sec. 10. NEW SECTION. 915.15 NOTIFICATION BY DEPARTMENT
10 OF JUSTICE.

11 The department of justice shall notify a registered victim
12 of the filing of an appeal, the expected date of decision on
13 the appeal as the information becomes available to the
14 department, all dispositional orders in the appeal, and the
15 outcome of the appeal of a case in which the victim was
16 involved.

17 Sec. 11. NEW SECTION. 915.16 NOTIFICATION BY LOCAL
18 CORRECTIONAL INSTITUTIONS.

19 The county sheriff or other person in charge of the local
20 jail or detention facility shall notify a registered victim of
21 the following:

- 22 1. The offender's release from custody on bail and the
23 terms or conditions of the release.
- 24 2. The offender's final release from local custody.
- 25 3. The offender's escape from custody.
- 26 4. The offender's transfer from local custody to custody
27 in another locality.

28 Sec. 12. NEW SECTION. 915.17 NOTIFICATION BY DEPARTMENT
29 OF CORRECTIONS.

30 1. The department of corrections shall notify a registered
31 victim, regarding an offender convicted of a violent crime and
32 committed to the custody of the director of the department of
33 corrections, of the following:

- 34 a. The date on which the offender is expected to be
35 released from custody on work release, and whether the

1 offender is expected to return to the community where the
2 registered victim resides.

3 b. The date on which the offender is expected to be
4 temporarily released from custody on furlough, and whether the
5 offender is expected to return to the community where the
6 registered victim resides.

7 c. The offender's escape from custody.

8 d. The recommendation by the department of the offender
9 for parole consideration.

10 e. The date on which the offender is expected to be
11 released from an institution pursuant to a plan of parole or
12 upon discharge of sentence.

13 f. The transfer of custody of the offender to another
14 state or federal jurisdiction.

15 g. The procedures for contacting the department to
16 determine the offender's current institution of residence.

17 2. The director of the department of corrections, or the
18 director's designee, having probable cause to believe that a
19 person has escaped from a state correctional institution or a
20 person convicted of a forcible felony who is released on work
21 release has absconded from a work release facility shall:

22 a. Make a complaint before a judge or magistrate. If it
23 is determined from the complaint or accompanying affidavits
24 that there is probable cause to believe that the person has
25 escaped from a state correctional institution or that the
26 forcible felon has absconded from a work release facility, the
27 judge or magistrate shall issue a warrant for the arrest of
28 the person.

29 b. Issue an announcement regarding the fact of the escape
30 of the person or the abscondence of the forcible felon to the
31 law enforcement authorities in, and to the news media
32 covering, communities in a twenty-five mile radius of the
33 point of escape or abscondence.

34 Sec. 13. NEW SECTION. 915.18 NOTIFICATION BY BOARD OF
35 PAROLE.

1 1. The board of parole shall notify a registered victim
2 regarding an offender who has committed a violent crime as
3 follows:

4 a. Not less than twenty days prior to conducting a hearing
5 at which the board will interview an offender, the board shall
6 notify the victim of the interview and inform the victim that
7 the victim may submit the victim's opinion concerning the
8 release of the offender in writing prior to the hearing or may
9 appear personally or by counsel at the hearing to express an
10 opinion concerning the offender's release.

11 b. Whether or not the victim appears at the hearing or
12 expresses an opinion concerning the offender's release on
13 parole, the board shall notify the victim of the board's
14 decision regarding release of the offender.

15 2. Offenders who are being considered for release on
16 parole may be informed of a victim's registration with the
17 county attorney and the substance of any opinion submitted by
18 the victim regarding the release of the offender.

19 3. If the board of parole makes a recommendation to the
20 governor for a reprieve, pardon, or commutation of sentence of
21 an offender, as provided in section 914.3, the board shall
22 forward with the recommendation information identifying a
23 registered victim for the purposes of notification by the
24 governor as required in section 915.19.

25 Sec. 14. NEW SECTION. 915.19 NOTIFICATION BY THE
26 GOVERNOR.

27 1. Prior to the governor granting a reprieve, pardon, or
28 commutation to an offender convicted of a violent crime, the
29 governor shall notify a registered victim that the victim's
30 offender has applied for a reprieve, pardon, or commutation.
31 The governor shall notify a registered victim regarding the
32 application not less than forty-five days prior to issuing a
33 decision on the application. The governor shall inform the
34 victim that the victim may submit a written opinion concerning
35 the application.

1 2. The county attorney may notify an offender being
2 considered for a reprieve, pardon, or commutation of sentence
3 of a victim's registration with the county attorney and the
4 substance of any opinion submitted by the victim concerning
5 the reprieve, pardon, or commutation of sentence.

6 Sec. 15. NEW SECTION. 915.20 PRESENCE OF VICTIM
7 COUNSELORS.

8 1. As used in this section, unless the context otherwise
9 requires:

10 a. "Proceedings related to the offense" means any
11 activities engaged in or proceedings commenced by a law
12 enforcement agency, judicial district department of
13 correctional services, or a court pertaining to the commission
14 of a public offense against the victim, in which the victim is
15 present, as well as examinations of the victim in an emergency
16 medical facility due to injuries from the public offense which
17 do not require surgical procedures. "Proceedings related to
18 the offense" includes, but is not limited to, law enforcement
19 investigations, pretrial court hearings, trial and sentencing
20 proceedings, and proceedings relating to the preparation of a
21 presentence investigation report in which the victim is
22 present.

23 b. "Victim counselor" means a victim counselor as defined
24 in section 236A.1.

25 2. A victim counselor who is present as a result of a
26 request by a victim shall not be denied access to any
27 proceedings related to the offense.

28 3. This section does not affect the inherent power of the
29 court to regulate the conduct of discovery pursuant to the
30 Iowa rules of criminal or civil procedure or to preside over
31 and control the conduct of criminal or civil hearings or
32 trials.

33 Sec. 16. NEW SECTION. 915.21 VICTIM IMPACT STATEMENT.

34 1. A victim may present a victim impact statement to the
35 court using one or more of the following methods:

1 a. A victim may file a signed victim impact statement with
2 the county attorney, and a filed impact statement shall be
3 included in the presentence investigation report. If a
4 presentence investigation report is not ordered by the court,
5 a filed victim impact statement shall be provided to the court
6 prior to sentencing.

7 b. A victim may orally present a victim impact statement
8 at the sentencing hearing, in the presence of the defendant,
9 and at any hearing regarding reconsideration of sentence.

10 c. If the victim is unable to make an oral or written
11 statement because of the victim's age, or mental, emotional,
12 or physical incapacity, the victim's attorney or a designated
13 representative shall have the opportunity to make a statement
14 on behalf of the victim.

15 2. A victim impact statement shall include the
16 identification of the victim of the offense, and may include
17 the following:

18 a. Itemization of any economic loss suffered by the victim
19 as a result of the offense. For purposes of this paragraph, a
20 pecuniary damages statement prepared by a county attorney
21 pursuant to section 915.103, may serve as the itemization of
22 economic loss.

23 b. Identification of any physical injury suffered by the
24 victim as a result of the offense with detail as to its
25 seriousness and permanence.

26 c. Description of any change in the victim's personal
27 welfare or familial relationships as a result of the offense.

28 d. Description of any request for psychological services
29 initiated by the victim or the victim's family as a result of
30 the offense.

31 e. Any other information related to the impact of the
32 offense upon the victim.

33 Sec. 17. NEW SECTION. 915.22 CIVIL INJUNCTION TO
34 RESTRAIN HARASSMENT OR INTIMIDATION OF VICTIMS OR WITNESSES.

35 1. Upon application, the court shall issue a temporary

1 restraining order prohibiting the harassment or intimidation
2 of a victim or witness in a criminal case if the court finds,
3 from specific facts shown by affidavit or by verified
4 complaint, that there are reasonable grounds to believe that
5 harassment or intimidation of an identified victim or witness
6 in a criminal case exist or that the order is necessary to
7 prevent and restrain an offense under this subchapter.

8 a. A temporary restraining order may be issued under this
9 subsection without written or oral notice to the adverse party
10 or the party's attorney in a civil action under this section
11 or in a criminal case if the court finds, upon written
12 certification of facts, that the notice should not be required
13 and that there is a reasonable probability that the party will
14 prevail on the merits. The temporary restraining order shall
15 set forth the reasons for the issuance of the order, be
16 specific in terms, and describe in reasonable detail the act
17 or acts being restrained.

18 b. A temporary restraining order issued without notice
19 under this section shall be endorsed with the date and hour of
20 issuance and be filed immediately in the office of the clerk
21 of the district court issuing the order.

22 c. A temporary restraining order issued under this section
23 shall expire at such time as the court directs, not to exceed
24 ten days from issuance. The court, for good cause shown
25 before expiration of the order, may extend the expiration date
26 of the order for up to ten days, or for a longer period agreed
27 to by the adverse party.

28 d. When a temporary restraining order is issued without
29 notice, the motion for a protective order shall be set down
30 for hearing at the earliest possible time and takes precedence
31 over all matters except older matters of the same character.
32 If the party does not proceed with the application for a
33 protective order when the motion is heard, the court shall
34 dissolve the temporary restraining order.

35 e. If, after two days' notice to the party or after a

1 shorter notice as the court prescribes, the adverse party
2 appears and moves to dissolve or modify the temporary
3 restraining order, the court shall proceed to hear and
4 determine the motion as expeditiously as possible.

5 2. Upon motion of the party, the court shall issue a
6 protective order prohibiting the harassment or intimidation of
7 a victim or witness in a criminal case if the court, after a
8 hearing, finds by a preponderance of the evidence that
9 harassment or intimidation of an identified victim or witness
10 in a criminal case exists or that the order is necessary to
11 prevent and restrain an offense under this chapter.

12 a. At the hearing, any adverse party named in the
13 complaint has the right to present evidence and cross-examine
14 witnesses.

15 b. A protective order shall set forth the reasons for the
16 issuance of the order, be specific in terms, and describe in
17 reasonable detail the act or acts being restrained.

18 c. The court shall set the duration of the protective
19 order for the period it determines is necessary to prevent the
20 harassment or intimidation of the victim or witness, but the
21 duration shall not be set for a period in excess of one year
22 from the date of the issuance of the order. The party, at any
23 time within ninety days before the expiration of the order,
24 may apply for a new protective order under this section.

25 3. Violation of a restraining or protective order issued
26 under this section constitutes contempt of court and may be
27 punished by contempt proceedings.

28 4. An application may be made pursuant to this section in
29 a criminal case, and if made, a district associate judge or
30 magistrate having jurisdiction of the highest offense charged
31 in the criminal case or a district judge shall have
32 jurisdiction to enter an order under this section.

33 5. The clerk of the district court shall provide notice
34 and copies of restraining orders issued pursuant to this
35 section in a criminal case involving an alleged violation of

1 section 708.2A to the applicable law enforcement agencies and
2 the twenty-four hour dispatcher for the law enforcement
3 agencies, in the manner provided for protective orders under
4 section 236.5. The clerk shall provide notice and copies of
5 modifications or vacations of these orders in the same manner.

6 Sec. 18. NEW SECTION. 915.23 EMPLOYMENT DISCRIMINATION
7 AGAINST WITNESSES PROHIBITED.

8 1. An employer shall not discharge an employee from, or
9 take or fail to take action, regarding an employee's promotion
10 or proposed promotion, or take action to reduce an employee's
11 wages or benefits, for actual time worked, due to the service
12 of an employee as a witness in a criminal proceeding.

13 2. An employer who violates this section commits a simple
14 misdemeanor.

15 3. An employee whose employer violates this section shall
16 also be entitled to recover damages from the employer.
17 Damages recoverable under this section include, but are not
18 limited to, actual damages, court costs, and reasonable
19 attorney fees.

20 4. The employee may also petition the court for imposition
21 of a cease and desist order against the person's employer and
22 for reinstatement to the person's previous position of
23 employment.

24 Sec. 19. Sections 915.30 through 915.34, as enacted in
25 this Act, are enacted as a new subchapter of chapter 915,
26 entitled "Protections for Children and Other Special Victims".

27 Sec. 20. NEW SECTION. 915.30 REPORTING OF CERTAIN SEXUAL
28 ASSAULT.

29 1. The classes of persons listed in this subsection shall
30 make a report within twenty-four hours, and as provided in
31 section 232.70, of cases of child abuse. In addition, the
32 classes of persons enumerated in this subsection shall make a
33 report of abuse of a child who is under twelve years of age
34 and may make a report of abuse of a child who is twelve years
35 of age or older, which would be defined as child abuse under

1 section 232.68, subsection 2, paragraph "c" or "e", except
2 that the abuse resulted from the acts or omissions of a person
3 other than a person responsible for the care of the child.

4 a. Every health practitioner who, in the scope of
5 professional practice, examines, attends, or treats a child
6 and who reasonably believes the child has been abused.

7 Notwithstanding section 140.3, this provision applies to a
8 health practitioner who receives information confirming that a
9 child is infected with a sexually transmitted disease.

10 b. Any of the following persons who, in the scope of
11 professional practice or in their employment responsibilities,
12 examines, attends, counsels, or treats a child and reasonably
13 believes a child has suffered abuse:

14 (1) A self-employed social worker.

15 (2) A social worker under the jurisdiction of the
16 department of human services.

17 (3) A social worker employed by a public or private agency
18 or institution.

19 (4) An employee or operator of a public or private health
20 care facility as defined in section 135C.1.

21 (5) A certified psychologist.

22 (6) A licensed school employee.

23 (7) An employee or operator of a licensed child care
24 center or registered group day care home or registered family
25 day care home.

26 (8) An employee or operator of a substance abuse program
27 or facility licensed under chapter 125.

28 (9) An employee of a department of human services
29 institution listed in section 218.1.

30 (10) An employee or operator of a juvenile detention or
31 juvenile shelter care facility approved under section 232.142.

32 (11) An employee or operator of a foster care facility
33 licensed or approved under chapter 237.

34 (12) An employee or operator of a mental health center.

35 (13) A peace officer.

1 (14) A dental hygienist.
2 (15) A counselor or mental health professional.
3 2. Any other person who believes that a child has been
4 abused may make a report as provided in section 232.70.
5 3. A person required to make a report under subsection 1,
6 other than a physician whose professional practice does not
7 regularly involve providing primary health care to children,
8 shall complete two hours of training relating to the
9 identification and reporting of child abuse within six months
10 of initial employment or self-employment involving the
11 examination, attending, counseling, or treatment of children
12 on a regular basis. Within one month of initial employment or
13 self-employment, the person shall obtain a statement of the
14 abuse reporting requirements from the person's employer or, if
15 self-employed, from the department. The person shall complete
16 at least two hours of additional child abuse identification
17 and reporting training every five years. If the person is an
18 employee of a hospital or similar institution, or of a public
19 or private institution, agency, or facility, the employer
20 shall be responsible for providing the child abuse
21 identification and reporting training. If the person is self-
22 employed, the person shall be responsible for obtaining the
23 child abuse identification and reporting training. The person
24 may complete the initial or additional training as part of a
25 continuing education program required under chapter 272C or
26 may complete the training as part of a training program
27 offered by the department of human services, the department of
28 education, an area education agency, a school district, the
29 Iowa law enforcement academy, or a similar public agency.
30 Sec. 21. NEW SECTION. 915.31 CHILD VICTIM SERVICES.
31 1. As used in this section, "victim" means a child under
32 the age of eighteen who has been sexually abused or subjected
33 to any other unlawful sexual conduct under chapter 709 or 726
34 or who has been the subject of a forcible felony.
35 2. A professional licensed or certified by the state to

1 provide immediate or short-term medical services or mental
2 health services to a victim may provide the services without
3 the prior consent or knowledge of the victim's parents or
4 guardians.

5 3. Such a professional shall notify the victim if the
6 professional is required to report an incidence of child abuse
7 involving the victim pursuant to section 915.30.

8 To the greatest extent possible, a multidisciplinary team
9 involving the county attorney, law enforcement personnel,
10 community-based child advocacy organizations, and personnel of
11 the department of human services shall be utilized in
12 investigating and prosecuting cases involving a violation of
13 chapter 709 or 726 or other crime committed upon a victim as
14 defined in subsection 1. A multidisciplinary team may also
15 consult with or include juvenile court officers, medical and
16 mental health professionals, court-appointed special
17 advocates, guardians ad litem, and members of a
18 multidisciplinary team created by the department of human
19 services for child abuse investigations. The department of
20 justice may provide training and other assistance to support
21 the activities of a multidisciplinary team referred to in this
22 subsection.

23 Sec. 22. NEW SECTION. 915.32 PROTECTION OF CHILD
24 VICTIM'S PRIVACY.

25 1. Prior to an arrest or the filing of an information or
26 indictment, whichever occurs first, against a person charged
27 with a violation of chapter 709, section 726.2, or section
28 728.12, committed with or on a child, as defined in section
29 702.5, the identity of the child or any information reasonably
30 likely to disclose the identity of the child shall not be
31 released to the public by any public employee except as
32 authorized by the court of jurisdiction.

33 2. In order to protect the welfare of the child, the name
34 of the child and identifying biographical information shall
35 not appear on the information or indictment or any other

1 public record. Instead, a nondescriptive designation shall
2 appear on all public records. The nonpublic records
3 containing the child's name and identifying biographical
4 information shall be kept by the court. This subsection does
5 not apply to the release of information to an accused or
6 accused's counsel; however, the use or release of this
7 information by the accused or accused's counsel for purposes
8 other than the preparation of defense constitutes contempt.

9 3. A person who willfully violates this section or who
10 willfully neglects or refuses to obey a court order made
11 pursuant to this section commits contempt.

12 4. A release of information in violation of this section
13 does not bar prosecution or provide grounds for dismissal of
14 charges.

15 Sec. 23. NEW SECTION. 915.33 GUARDIAN AD LITEM FOR
16 PROSECUTING CHILD WITNESSES.

17 A prosecuting witness who is a child, as defined in section
18 702.5, in a case involving a violation of chapter 709 or
19 section 726.2, 726.3, 726.6, or 728.12, is entitled to have
20 the witness's interests represented by a guardian ad litem at
21 all stages of the proceedings arising from such violation.
22 The guardian ad litem shall be a practicing attorney and shall
23 be designated by the court after due consideration is given to
24 the desires and needs of the child and the compatibility of
25 the child and the child's interests with the prospective
26 guardian ad litem. If a guardian ad litem has previously been
27 appointed for the child in a proceeding under chapter 232 or a
28 proceeding in which the juvenile court has waived jurisdiction
29 under section 232.45, the court shall appoint the same
30 guardian ad litem under this section. The guardian ad litem
31 shall receive notice of and may attend all depositions,
32 hearings, and trial proceedings to support the child and
33 advocate for the protection of the child but shall not be
34 allowed to separately introduce evidence or to directly
35 examine or cross-examine witnesses. However, the guardian ad

1 litem shall file reports to the court as required by the
2 court. If a prosecuting witness is fourteen, fifteen,
3 sixteen, or seventeen years of age, and would be entitled to
4 the appointment of a guardian ad litem if the prosecuting
5 witness were a child, the court may appoint a guardian ad
6 litem if the requirements for guardians ad litem in this
7 section are met, and the guardian ad litem agrees to
8 participate without compensation.

9 References in this section to a guardian ad litem shall be
10 interpreted to include references to a court-appointed special
11 advocate as defined in section 232.2, subsection 9.

12 **Sec. 24. NEW SECTION. 915.34 TELEVISED, VIDEOTAPED, AND**
13 **RECORDED EVIDENCE -- LIMITED COURT TESTIMONY -- MINORS AND**
14 **OTHERS.**

15 1. Upon its own motion or upon motion of any party, a
16 court may protect a minor, as defined in section 599.1, from
17 trauma caused by testifying in the physical presence of the
18 defendant where it would impair the minor's ability to
19 communicate, by ordering that the testimony of the minor be
20 taken in a room other than the courtroom and be televised by
21 closed-circuit equipment for viewing in the courtroom.
22 However, such an order shall be entered only upon a specific
23 finding by the court that such measures are necessary to
24 protect the minor from trauma. Only the judge, prosecuting
25 attorney, defendant's attorney, persons necessary to operate
26 the equipment, and any person whose presence, in the opinion
27 of the court, would contribute to the welfare and well-being
28 of the minor may be present in the room with the minor during
29 the minor's testimony. The judge shall inform the minor that
30 the defendant will not be present in the room in which the
31 minor will be testifying but that the defendant will be
32 viewing the minor's testimony through closed-circuit
33 television.

34 During the minor's testimony the defendant shall remain in
35 the courtroom and shall be allowed to communicate with the

1 defendant's counsel in the room where the minor is testifying
2 by an appropriate electronic method.

3 In addition, upon a finding of necessity, the court may
4 allow the testimony of a victim or witness with a mental
5 illness, mental retardation, or other developmental disability
6 to be taken as provided in this subsection, regardless of the
7 age of the victim or witness.

8 2. The court may, upon its own motion or upon motion of a
9 party, order that the testimony of a minor, as defined in
10 section 599.1, be taken by recorded deposition for use at
11 trial, pursuant to rule of criminal procedure 12(2)(b). In
12 addition to requiring that such testimony be recorded by
13 stenographic means, the court may on motion and hearing, and
14 upon a finding that the minor is unavailable as provided in
15 Iowa rules of evidence 804(a), order the videotaping of the
16 minor's testimony for viewing in the courtroom by the court.
17 The videotaping shall comply with the provisions of rule of
18 criminal procedure 12(2)(b), and shall be admissible as
19 evidence in the trial. In addition, upon a finding of
20 necessity, the court may allow the testimony of a victim or
21 witness with a mental illness, mental retardation, or other
22 developmental disability to be taken as provided in this
23 subsection, regardless of the age of the victim or witness.

24 3. The court may upon motion of a party admit into
25 evidence the recorded statements of a child, as defined in
26 section 702.5, describing sexual contact performed with or on
27 the child, not otherwise admissible in evidence by statute or
28 court rule if the court determines that the recorded
29 statements substantially comport with the requirements for
30 admission under Iowa rules of evidence 803(24) or 804(b)(5).

31 4. A court may, upon its own motion or upon the motion of
32 a party, order the court testimony of a child to be limited in
33 duration in accordance with the developmental maturity of the
34 child. The court may consider or hear expert testimony in
35 order to determine the appropriate limitation on the duration

1 of a child's testimony. However, the court shall, upon
2 motion, limit the duration of a child's uninterrupted
3 testimony to one hour, at which time the court shall allow the
4 child to rest before continuing to testify.

5 Sec. 25. Sections 915.40 through 915.44, as enacted in
6 this Act, are enacted as a new subchapter of chapter 915,
7 entitled "Victims of Sexual Assault".

8 Sec. 26. NEW SECTION. 915.40 DEFINITIONS.

9 As used in this subchapter, unless the context otherwise
10 requires:

11 1. "AIDS" means acquired immune deficiency syndrome as
12 defined by the centers for disease control of the United
13 States department of health and human services.

14 2. "Convicted offender" means a person convicted of a
15 sexual assault or a juvenile who has been adjudicated
16 delinquent for an act of sexual assault.

17 3. "Department" means the Iowa department of public
18 health.

19 4. "Division" means the crime victims assistance division
20 of the office of the attorney general.

21 5. "HIV" means the human immunodeficiency virus identified
22 as the causative agent of AIDS.

23 6. "HIV-related test" means a test for the antibody or
24 antigen to HIV.

25 7. "Petitioner" means a person who is the victim of a
26 sexual assault which resulted in alleged significant exposure
27 or the parent, guardian, or custodian of a victim if the
28 victim is a minor, for whom the county attorney files a
29 petition with the district court to require the convicted
30 offender to undergo an HIV-related test.

31 8. "Sexual assault" means sexual abuse as defined in
32 section 709.1, or any other sexual offense by which a victim
33 has allegedly had sufficient contact with a convicted offender
34 to be deemed a significant exposure.

35 9. "Significant exposure" means contact of the victim's

1 ruptured or broken skin or mucous membranes with the blood or
2 bodily fluids, other than tears, saliva, or perspiration of
3 the convicted offender. "Significant exposure" is presumed to
4 have occurred when there is a showing that there was
5 penetration of the convicted offender's penis into the
6 victim's vagina or anus, contact between the mouth and
7 genitalia, or contact between the genitalia of the offender
8 and the genitalia or anus of the victim.

9 10. "Victim counselor" means a person who is engaged in a
10 crime victim center as defined in section 236A.1, who is
11 certified as a counselor by the crime victim center, and who
12 has completed at least twenty hours of training provided by
13 the Iowa coalition against sexual assault or a similar agency.

14 Sec. 27. NEW SECTION. 915.41 MEDICAL EXAMINATION COSTS.

15 The cost of a medical examination for the purpose of
16 gathering evidence and the cost of treatment for the purpose
17 of preventing venereal disease shall be paid from the fund
18 established in section 915.94.

19 Sec. 28. NEW SECTION. 915.42 RIGHT TO HIV-TESTING OF
20 CONVICTED ASSAILANT.

21 1. Unless a petitioner chooses to be represented by
22 private counsel, the county attorney shall represent the
23 victim's interest in all proceedings under this subchapter.

24 2. If a person is convicted of sexual assault or
25 adjudicated delinquent for an act of sexual assault, the
26 county attorney, if requested by the petitioner, shall
27 petition the court for an order requiring the convicted
28 offender to submit to an HIV-related test, provided that all
29 of the following conditions are met:

30 a. The sexual assault for which the offender was convicted
31 or adjudicated delinquent included sufficient contact between
32 the victim and the convicted offender to be deemed a
33 significant exposure pursuant to section 915.40.

34 b. The authorized representative of the petitioner, the
35 county attorney, or the court sought to obtain written

1 informed consent from the convicted offender to the testing.

2 c. Written informed consent was not provided by the
3 convicted offender.

4 3. Upon receipt of the petition filed under subsection 2,
5 the court shall:

6 a. Prior to the scheduling of a hearing, refer the victim
7 for counseling by a victim counselor or a person requested by
8 the victim who is authorized to provide the counseling
9 required pursuant to section 141.22, regarding the nature,
10 reliability, and significance of the HIV-related test and of
11 the serologic status of the convicted offender.

12 b. Schedule a hearing to be held as soon as is
13 practicable.

14 c. Cause written notice to be served on the convicted
15 offender who is the subject of the proceeding, in accordance
16 with the rules of civil procedure relating to the service of
17 original notice, or if the convicted offender is represented
18 by legal counsel, provide written notice to the convicted
19 offender and the convicted offender's legal counsel.

20 d. Provide for the appointment of legal counsel for a
21 convicted offender if the convicted offender desires but is
22 financially unable to employ counsel.

23 e. Furnish legal counsel with copies of the petition.

24 4. a. A hearing under this section shall be conducted in
25 an informal manner consistent with orderly procedure and in
26 accordance with the Iowa rules of evidence. The hearing shall
27 be limited in scope to the review of questions of fact only as
28 to the issue of whether the sexual assault for which the
29 offender was convicted or adjudicated delinquent provided
30 sufficient contact between the victim and the convicted
31 offender to be deemed a significant exposure and to questions
32 of law.

33 b. In determining whether the contact should be deemed a
34 significant exposure, the court shall base the determination
35 on the testimony presented during the proceedings on the

1 sexual assault charge, the minutes of the testimony or other
2 evidence included in the court record, or if a plea of guilty
3 was entered, based upon the complaint or upon testimony
4 provided during the hearing.

5 c. The victim may testify at the hearing but shall not be
6 compelled to testify. The court shall not consider the
7 refusal of a victim to testify at the hearing as material to
8 the court's decision regarding issuance of an order requiring
9 testing.

10 d. The hearing shall be in camera unless the convicted
11 offender and the petitioner agree to a hearing in open court
12 and the court approves. The report of the hearing proceedings
13 shall be sealed and no report of the proceedings shall be
14 released to the public, except with the permission of all
15 parties and the approval of the court.

16 e. Stenographic notes or electronic or mechanical
17 recordings shall be taken of all court hearings unless waived
18 by the parties.

19 5. Following the hearing, the court shall require a
20 convicted offender to undergo an HIV-related test only if the
21 petitioner proves all of the following by a preponderance of
22 the evidence:

23 a. The sexual assault constituted a significant exposure.

24 b. An authorized representative of the petitioner, the
25 county attorney, or the court sought to obtain written
26 informed consent from the convicted offender.

27 c. Written informed consent was not provided by the
28 convicted offender.

29 6. A convicted offender who is required to undergo an HIV-
30 related test may appeal to the court for review of questions
31 of law only, but may appeal questions of fact if the findings
32 of fact are clearly erroneous.

33 Sec. 29. NEW SECTION. 915.43 TESTING, REPORTING, AND
34 COUNSELING -- PENALTIES.

35 1. The physician or other practitioner who orders the test

1 of a convicted offender for HIV under this subchapter shall
2 disclose the results of the test to the convicted offender and
3 to the victim counselor or a person requested by the victim
4 who is authorized to provide the counseling required pursuant
5 to section 141.22, who shall disclose the results to the
6 petitioner.

7 2. All testing under this chapter shall be accompanied by
8 pretest and posttest counseling as required under section
9 141.22.

10 3. Subsequent testing arising out of the same incident of
11 exposure shall be conducted in accordance with the procedural
12 and confidentiality requirements of this subchapter.

13 4. Results of a test performed under this subchapter,
14 except as provided in subsection 14, shall be disclosed only
15 to the physician or other practitioner who orders the test of
16 the convicted offender, the convicted offender, the victim,
17 the victim counselor or person requested by the victim who is
18 authorized to provide the counseling required pursuant to
19 section 141.22, the physician of the victim if requested by
20 the victim, and the parent, guardian, or custodian of the
21 victim, if the victim is a minor. Results of a test performed
22 under this subchapter shall not be disclosed to any other
23 person without the written informed consent of the convicted
24 offender. A person to whom the results of a test have been
25 disclosed under this subchapter is subject to the
26 confidentiality provisions of section 141.23, and shall not
27 disclose the results to another person except as authorized by
28 section 141.23, subsection 1.

29 5. If testing is ordered under this subchapter, the court
30 shall also order periodic testing of the convicted offender
31 during the period of incarceration, probation, or parole if
32 the physician or other practitioner who ordered the initial
33 test of the convicted offender certifies that, based upon
34 prevailing scientific opinion regarding the maximum period
35 during which the results of an HIV-related test may be

1 negative for a person after being HIV-infected, additional
2 testing is necessary to determine whether the convicted
3 offender was HIV-infected at the time the sexual assault was
4 perpetrated. The results of the test conducted pursuant to
5 this subsection shall be released only to the physician or
6 other practitioner who orders the test of the convicted
7 offender, the convicted offender, the victim counselor or
8 person requested by the victim who is authorized to provide
9 the counseling required pursuant to section 141.22, who shall
10 disclose the results to the petitioner, and the physician of
11 the victim, if requested by the victim.

12 6. The court shall not consider the disclosure of an
13 alleged offender's serostatus to an alleged victim, prior to
14 conviction, as a basis for a reduced plea or reduced sentence.

15 7. The fact that an HIV-related test was performed under
16 this subchapter and the results of the test shall not be
17 included in the convicted offender's medical or criminal
18 record unless otherwise included in department of corrections
19 records.

20 8. The fact that an HIV-related test was performed under
21 this subchapter and the results of the test shall not be used
22 as a basis for further prosecution of a convicted offender in
23 relation to the incident which is the subject of the testing,
24 to enhance punishments, or to influence sentencing.

25 9. If the serologic status of a convicted offender, which
26 is conveyed to the victim, is based upon an HIV-related test
27 other than a test which is authorized as a result of the
28 procedures established in this subchapter, legal protections
29 which attach to such testing shall be the same as those which
30 attach to an initial test under this subchapter, and the
31 rights to a predisclosure hearing and to appeal provided under
32 section 915.43 shall apply.

33 10. HIV-related testing required under this subchapter
34 shall be conducted by the state hygienic laboratory.

35 11. Notwithstanding the provisions of this subchapter

1 requiring initial testing, if a petition is filed with the
2 court under section 915.43 requesting an order for testing and
3 the order is granted, and if a test has previously been
4 performed on the convicted offender while under the control of
5 the department of corrections, the test results shall be
6 provided in lieu of the performance of an initial test of the
7 convicted offender, in accordance with this subchapter.

8 12. Test results shall not be disclosed to a convicted
9 offender who elects against disclosure.

10 13. In addition to the counseling received by a victim,
11 referral to appropriate health care and support services shall
12 be provided.

13 14. In addition to persons to whom disclosure of the
14 results of a convicted offender's HIV-related test results is
15 authorized under this subchapter, the victim may also disclose
16 the results to the victim's spouse, persons with whom the
17 victim has engaged in vaginal, anal, or oral intercourse
18 subsequent to the sexual assault, or members of the victim's
19 family within the third degree of consanguinity.

20 15. A person to whom disclosure of a convicted offender's
21 HIV-related test results is authorized under this subchapter
22 shall not disclose the results to any other person for whom
23 disclosure is not authorized under this subchapter. A person
24 who intentionally or recklessly makes an unauthorized
25 disclosure in violation of this subsection is subject to a
26 civil penalty of one thousand dollars. The attorney general
27 or the attorney general's designee may maintain a civil action
28 to enforce this subchapter. Proceedings maintained under this
29 subsection shall provide for the anonymity of the test subject
30 and all documentation shall be maintained in a confidential
31 manner.

32 Sec. 30. NEW SECTION. 915.44 POLYGRAPH EXAMINATIONS OF
33 VICTIMS OR WITNESSES -- LIMITATIONS.

34 1. A criminal or juvenile justice agency shall not require
35 a person claiming to be a victim of sexual assault or claiming

1 to be a witness regarding the sexual assault of another person
2 to submit to a polygraph or similar examination as a
3 precondition to the agency conducting an investigation into
4 the matter.

5 2. An agency wishing to perform a polygraph examination of
6 a person claiming to be a victim or witness of sexual assault
7 shall inform the person of the following:

8 a. That taking the polygraph examination is voluntary.

9 b. That the results of the examination are not admissible
10 in court.

11 c. That the person's decision to submit or refuse a
12 polygraph examination will not be the sole basis for a
13 decision by the agency not to investigate the matter.

14 3. An agency which declines to investigate an alleged case
15 of sexual assault following a decision by a person claiming to
16 be a victim not to submit to a polygraph examination shall
17 provide to that person, in writing, the reasons why the agency
18 did not pursue the investigation at the request of the person.

19 Sec. 31. Sections 915.50 through 915.56, as enacted in
20 this Act, are enacted as a new subchapter of chapter 915,
21 entitled "Victims of Domestic Abuse".

22 Sec. 32. NEW SECTION. 915.50 PREVENTION OF FURTHER ABUSE
23 -- NOTIFICATION OF RIGHTS.

24 If a peace officer has reason to believe that domestic
25 abuse has occurred, the officer shall use all reasonable means
26 to prevent further abuse including but not limited to the
27 following:

28 1. If requested, remaining on the scene as long as there
29 is a danger to an abused person's physical safety without the
30 presence of a peace officer, including but not limited to
31 staying in the dwelling unit, or if unable to remain on the
32 scene, assisting the person in leaving the residence.

33 2. Assisting an abused person in obtaining medical
34 treatment necessitated by an assault, including providing
35 assistance to the abused person in obtaining transportation to

1 the emergency room of the nearest hospital.

2 3. Providing an abused person with immediate and adequate
3 notice of the person's rights. The notice shall consist of
4 handing the person a copy of the following statement written
5 in English and Spanish, asking the person to read the card and
6 whether the person understands the rights:

7 "You have the right to ask the court for the following help
8 on a temporary basis:

9 (1) Keeping your attacker away from you, your home, and
10 your place of work.

11 (2) The right to stay at your home without interference
12 from your attacker.

13 (3) Getting custody of children and obtaining support for
14 yourself and your minor children if your attacker is legally
15 required to provide such support.

16 (4) Professional counseling for you, the children who are
17 members of the household, and the defendant.

18 You have the right to seek help from the court to seek a
19 protective order with or without the assistance of legal
20 representation. You have the right to seek help from the
21 courts without the payment of court costs if you do not have
22 sufficient funds to pay the costs.

23 You have the right to file criminal charges for threats,
24 assaults, or other related crimes.

25 You have the right to seek restitution against your
26 attacker for harm to yourself or your property.

27 If you are in need of medical treatment, you have the right
28 to request that the officer present assist you in obtaining
29 transportation to the nearest hospital or otherwise assist
30 you.

31 If you believe that police protection is needed for your
32 physical safety, you have the right to request that the
33 officer present remain at the scene until you and other
34 affected parties can leave or until safety is otherwise
35 ensured."

1 The notice shall also contain the telephone numbers of safe
2 shelters, support groups, or crisis lines operating in the
3 area.

4 Sec. 33. NEW SECTION. 915.51 DUTY TO ARREST.

5 1. a. A peace officer may, with or without a warrant,
6 arrest a person under section 708.2A, subsection 2, paragraph
7 "a", if, upon investigation, including a reasonable inquiry of
8 the alleged victim and other witnesses, if any, the officer
9 has probable cause to believe that a domestic abuse assault
10 has been committed which did not result in any injury to the
11 alleged victim.

12 b. Except as otherwise provided in subsection 2, a peace
13 officer shall, with or without a warrant, arrest a person
14 under section 708.2A, subsection 2, paragraph "b", if, upon
15 investigation, including a reasonable inquiry of the alleged
16 victim and other witnesses, if any, the officer has probable
17 cause to believe that a domestic abuse assault has been
18 committed which resulted in the alleged victim's suffering a
19 bodily injury.

20 c. Except as otherwise provided in subsection 2, a peace
21 officer shall, with or without a warrant, arrest a person
22 under section 708.2A, subsection 2, paragraph "c", if, upon
23 investigation, including a reasonable inquiry of the alleged
24 victim and other witnesses, if any, the officer has probable
25 cause to believe that a domestic abuse assault has been
26 committed with the intent to inflict a serious injury.

27 d. Except as otherwise provided in subsection 2, a peace
28 officer shall, with or without a warrant, arrest a person
29 under section 708.2A, subsection 2, paragraph "c", if, upon
30 investigation, including a reasonable inquiry of the alleged
31 victim and other witnesses, if any, the officer has probable
32 cause to believe that a domestic abuse assault has been
33 committed and that the alleged abuser used or displayed a
34 dangerous weapon in connection with the assault.

35 2. As described in subsection 1, paragraph "b", "c", or

1 "d", the peace officer shall arrest the person whom the peace
2 officer believes to be the primary physical aggressor. The
3 duty of the officer to arrest extends only to those persons
4 involved who are believed to have committed an assault.
5 Persons acting with justification, as defined in section
6 704.3, are not subject to mandatory arrest. In identifying
7 the primary physical aggressor, a peace officer shall consider
8 the need to protect victims of domestic abuse, the relative
9 degree of injury or fear inflicted on the persons involved,
10 and any history of domestic abuse between the persons
11 involved. A peace officer's identification of the primary
12 physical aggressor shall not be based on the consent of the
13 victim to any subsequent prosecution or on the relationship of
14 the persons involved in the incident, and shall not be based
15 solely upon the absence of visible indications of injury or
16 impairment.

17 Sec. 34. NEW SECTION. 915.52 COURT ACTION FOR RELIEF
18 FROM DOMESTIC ABUSE.

19 1. A person, including a parent or guardian on behalf of
20 an unemancipated minor, may seek relief from domestic abuse by
21 filing a verified petition in the district court.

22 2. The clerk of the district court shall furnish the
23 required forms to persons seeking protective orders through
24 pro se proceedings pursuant to chapter 236.

25 3. A county attorney's office may provide assistance to a
26 person wishing to initiate proceedings pursuant to chapter 236
27 or to a plaintiff at any stage of a proceeding under chapter
28 236, if the individual does not have sufficient funds to pay
29 for legal assistance and if the assistance does not create a
30 conflict of interest for the county attorney's office. The
31 assistance provided may include, but is not limited to,
32 assistance in obtaining or completing forms, filing a petition
33 or other necessary pleading, presenting evidence to the court,
34 and enforcing the orders of the court entered pursuant to
35 chapter 236.

1 Sec. 35. NEW SECTION. 915.53 VICTIM COUNSELOR PRIVILEGE.

2 1. As used in this section:

3 a. "Crime victim center" means any office, institution,
4 agency, or crisis center offering assistance to victims of
5 crime and their families through crisis intervention,
6 accompaniment during medical and legal proceedings, and
7 follow-up counseling.

8 b. "Confidential communication" means information shared
9 between a crime victim and a victim counselor within the
10 counseling relationship, and includes all information received
11 by the counselor and any advice, report, or working paper
12 given to or prepared by the counselor in the course of the
13 counseling relationship with the victim.

14 c. "Victim" means a person who consults a victim counselor
15 for the purpose of securing advice, counseling, or assistance
16 concerning a mental, physical, or emotional condition caused
17 by a violent crime committed against the person.

18 d. "Victim counselor" means a person who is engaged in a
19 crime victim center, is certified as a counselor by the crime
20 victim center, and is under the control of a direct services
21 supervisor of a crime victim center, whose primary purpose is
22 the rendering of advice, counseling, and assistance to the
23 victims of crime. To qualify as a "victim counselor" under
24 this section, the person must also have completed at least
25 twenty hours of training provided by the center in which the
26 person is engaged, by the Iowa organization of victim
27 assistance, by the Iowa coalition against sexual abuse, or by
28 the Iowa coalition against domestic violence, which shall
29 include but not be limited to, the dynamics of victimization,
30 substantive laws relating to violent crime, sexual assault,
31 and domestic violence, crisis intervention techniques,
32 communication skills, working with diverse populations, an
33 overview of the state criminal justice system, information
34 regarding pertinent hospital procedures, and information
35 regarding state and community resources for victims of crime.

1 Confidential information is confidential information which,
2 so far as the victim is aware, is not disclosed to a third
3 party with the exception of a person present in the
4 consultation for the purpose of furthering the interest of the
5 victim, a person to whom disclosure is reasonably necessary
6 for the transmission of the information, or a person with whom
7 disclosure is necessary for accomplishment of the purpose for
8 which the counselor is consulted by the victim.

9 2. A victim counselor shall not be examined or required to
10 give evidence in any civil or criminal proceeding as to any
11 confidential communication made by a victim to the counselor,
12 nor shall a clerk, secretary, stenographer, or any other
13 employee who types or otherwise prepares or manages the
14 confidential reports or working papers of a victim counselor
15 be required to produce evidence of any such confidential
16 communication, unless the victim waives this privilege in
17 writing or disclosure of the information is compelled by a
18 court pursuant to subsection 7. Under no circumstances shall
19 the location of a crime victim center or the identity of the
20 victim counselor be disclosed in any civil or criminal
21 proceeding.

22 3. If a victim is deceased or has been declared to be
23 incompetent, the privilege specified in subsection 2 may be
24 waived by the guardian of the victim or by the personal
25 representative of the victim's estate.

26 4. A minor may waive the privilege under this section
27 unless, in the opinion of the court, the minor is incapable of
28 knowingly and intelligently waiving the privilege, in which
29 case the parent or guardian of the minor may waive the
30 privilege on the minor's behalf if the parent or guardian is
31 not the defendant and does not have such a relationship with
32 the defendant that the parent or guardian has an interest in
33 the outcome of the proceeding being favorable to the
34 defendant.

35 5. The privilege under this section does not apply in

1 matters of proof concerning the chain of custody of evidence,
2 in matters of proof concerning the physical appearance of the
3 victim at the time of the injury or the counselor's first
4 contact with the victim after the injury, or where the
5 counselor has reason to believe that the victim has given
6 perjured testimony and the defendant or the state has made an
7 offer of proof that perjury may have been committed.

8 6. The failure of a counselor to testify due to this
9 section shall not give rise to an inference unfavorable to the
10 cause of the state or the cause of the defendant.

11 7. Upon the motion of a party, accompanied by a written
12 offer of proof, a court may compel disclosure of certain
13 information if the court determines that all of the following
14 conditions are met:

15 a. The information sought is relevant and material
16 evidence of the facts and circumstances involved in an alleged
17 criminal act which is the subject of a criminal proceeding.

18 b. The probative value of the information outweighs the
19 harmful effect, if any, of disclosure on the victim, the
20 counseling relationship, and the treatment services.

21 c. The information cannot be obtained by reasonable means
22 from any other source.

23 8. In ruling on a motion under subsection 7, the court, or
24 a different judge, if the motion was filed in a criminal
25 proceeding to be tried to the court, shall adhere to the
26 following procedure:

27 a. The court may require the counselor from whom
28 disclosure is sought or the victim claiming the privilege, or
29 both, to disclose the information in chambers out of the
30 presence and hearing of all persons except the victim and any
31 other persons the victim is willing to have present.

32 b. If the court determines that the information is
33 privileged and not subject to compelled disclosure, the
34 information shall not be disclosed by any person without the
35 consent of the victim.

1 c. If the court determines that certain information may be
2 subject to disclosure, as provided in subsection 7, the court
3 shall so inform the party seeking the information and shall
4 order a subsequent hearing out of the presence of the jury, if
5 any, at which the parties shall be allowed to examine the
6 counselor regarding the information which the court has
7 determined may be subject to disclosure. The court may accept
8 other evidence at that time.

9 d. At the conclusion of a hearing under paragraph "c", the
10 court shall determine which information, if any, shall be
11 disclosed and may enter an order describing the evidence which
12 may be introduced by the moving party and prescribing the line
13 of questioning which may be permitted. The moving party may
14 then offer evidence pursuant to the court order. However, no
15 victim counselor is subject to exclusion under Iowa rule of
16 evidence 615.

17 9. This section does not relate to the admission of
18 evidence of the victim's past sexual behavior which is
19 strictly subject to Iowa rule of evidence 412.

20 Sec. 36. NEW SECTION. 915.54 DUTY TO ENFORCE PROTECTIVE
21 ORDERS AND AGREEMENTS.

22 1. A peace officer shall use every reasonable means to
23 enforce the following:

24 a. An order or court-approved consent agreement entered
25 under chapter 236.

26 b. A temporary or permanent protective order or order to
27 vacate the homestead under chapter 598.

28 c. An order that establishes conditions of release or is a
29 protective order or sentencing order in a criminal prosecution
30 arising from a domestic abuse assault.

31 d. A protective order under chapter 232.

32 2. If a peace officer has reason to believe that domestic
33 abuse has occurred, the peace officer shall ask the abused
34 person if any prior orders exist, and shall contact the
35 twenty-four hour dispatcher to inquire if any prior orders

1 exist.

2 3. If a peace officer has probable cause to believe that a
3 person has violated an order or approved consent agreement
4 entered under chapter 236, a temporary or permanent protective
5 order or order to vacate the homestead under chapter 598, an
6 order establishing conditions of release or a protective or
7 sentencing order in a criminal prosecution arising from a
8 domestic abuse assault, or, if the person is an adult, a
9 violation of a protective order under chapter 232, the peace
10 officer shall take the person into custody and shall take the
11 person without unnecessary delay before the nearest or most
12 accessible magistrate in the judicial district in which the
13 person was taken into custody.

14 4. The magistrate shall make an initial preliminary
15 determination whether there is probable cause to believe that
16 an order or consent agreement existed and that the person
17 taken into custody has violated its terms. The magistrate's
18 decision shall be entered in the record.

19 5. If a peace officer has probable cause to believe that a
20 person has violated an order or approved consent agreement
21 entered under chapter 236, a temporary or permanent protective
22 order or order to vacate the homestead under chapter 598, an
23 order establishing conditions of release or a protective or
24 sentencing order in a criminal prosecution arising from a
25 domestic abuse assault, or a protective order under chapter
26 232, and the peace officer is unable to take the person into
27 custody within twenty-four hours of making the probable cause
28 determination, the peace officer shall either request a
29 magistrate to make a determination as to whether a rule to
30 show cause or arrest warrant should be issued, or refer the
31 matter to the county attorney.

32 6. If the magistrate finds probable cause under subsection
33 5, the magistrate shall order the person to appear before the
34 court which issued the original order or approved the consent
35 agreement, whichever was allegedly violated, at a specified

1 time not less than five days nor more than fifteen days after
2 the initial appearance under this section. The magistrate
3 shall cause the original court to be notified of the contents
4 of the magistrate's order.

5 7. A peace officer shall not be held civilly or criminally
6 liable for acting pursuant to this section provided that the
7 peace officer acts in good faith, on probable cause, and the
8 officer's acts do not constitute a willful and wanton
9 disregard for the rights or safety of another.

10 Sec. 37. NEW SECTION. 915.55 CONTACT TO BE PROHIBITED --
11 EXTENSION OF NO-CONTACT ORDER.

12 1. When a person arrested for a domestic abuse assault, or
13 taken into custody for contempt proceedings pursuant to
14 section 915.54, is brought before a magistrate and the
15 magistrate finds probable cause to believe that domestic abuse
16 or a violation of an order or consent agreement has occurred
17 and that the presence of the alleged abuser in the victim's
18 residence poses a threat to the safety of the alleged victim,
19 persons residing with the alleged victim, or members of the
20 alleged victim's immediate family, the magistrate shall enter
21 an order which shall require the alleged abuser to have no
22 contact with the alleged victim, persons residing with the
23 alleged victim, or members of the alleged victim's immediate
24 family, and to refrain from harassing the alleged victim,
25 persons residing with the alleged victim, or members of the
26 alleged victim's immediate family, in addition to any other
27 conditions of release determined and imposed by the magistrate
28 under section 811.2.

29 a. A no-contact order requiring the alleged abuser to have
30 no contact with the alleged victim's children shall prevail
31 over any existing order awarding custody or visitation rights,
32 which may be in conflict with the no-contact order.

33 b. The court order shall contain the court's directives
34 restricting the defendant from having contact with the victim
35 or the victim's relatives.

1 2. The clerk of the district court or other person
2 designated by the court shall provide a copy of this order to
3 the victim. The order has force and effect until it is
4 modified or terminated by subsequent court action in the
5 contempt proceeding or the criminal or juvenile court action
6 and is reviewable in the manner prescribed in section 811.2.
7 If a defendant is convicted for, receives a deferred judgment
8 for, or pleads guilty to a violation of section 708.2A, the
9 court shall modify the no-contact order issued by the
10 magistrate to provide that the no-contact order shall continue
11 in effect for a period of one year from the date that the
12 judgment is entered or the deferred judgment is granted,
13 regardless of whether the defendant is placed on probation.

14 3. Upon an application by the state which is filed within
15 ninety days prior to the expiration of the modified no-contact
16 order, the court shall modify and extend the no-contact order
17 for an additional period of one year, if the court finds that
18 the defendant continues to pose a threat to the safety of the
19 victim, persons residing with the victim, or members of the
20 victim's immediate family. The number of modifications
21 extending the no-contact order permitted by this section is
22 not limited.

23 4. The clerk of the district court shall also provide
24 notice and copies of the no-contact order to the applicable
25 law enforcement agencies and the twenty-four hour dispatcher
26 for the law enforcement agencies, in the manner provided for
27 protective orders under section 236.5. The clerk shall
28 provide notice and copies of modifications or vacations of
29 these orders in the same manner.

30 Sec. 38. NEW SECTION. 915.56 RIGHT TO SEALED COURT FILE.
31 The file in a domestic abuse case shall be sealed by the
32 clerk of the district court when it is complete and after the
33 time for appeal has expired. However, the clerk shall open
34 the file upon application to and order of the court for good
35 cause shown or upon request of the child support recovery

1 unit.

2 Sec. 39. Sections 915.70 through 915.75, as enacted in
3 this Act, are enacted as a new subchapter of chapter 915,
4 entitled "Victims of Juveniles".

5 Sec. 40. NEW SECTION. 915.70 NOTIFICATION OF VICTIM OF
6 JUVENILE BY JUVENILE COURT OFFICER.

7 1. If a complaint is filed alleging that a child has
8 committed a delinquent act, a juvenile court officer shall
9 notify the alleged victim, as defined in section 915.10, of
10 the following rights:

11 a. To be notified of the names and addresses of the child
12 and of the child's custodial parent or guardian.

13 b. To be notified of the specific charge or charges filed
14 in a petition resulting from the complaint and regarding any
15 dispositional orders or informal adjustments.

16 c. To be informed of the person's rights to restitution.

17 d. To be notified of the person's right to offer a written
18 victim impact statement and to orally present the victim
19 impact statement.

20 e. To be informed of the availability of assistance
21 through the crime victim compensation program.

22 2. The juvenile court and the county attorney shall
23 coordinate efforts so as to prevent duplication of
24 notification under this section and section 915.13.

25 Sec. 41. NEW SECTION. 915.71 RIGHT TO REVIEW COMPLAINT
26 AGAINST JUVENILE.

27 1. A complaint filed with the court or its designee
28 pursuant to chapter 232 which alleges that a child who is at
29 least ten years of age has committed a delinquent act, which
30 if committed by an adult would be a public offense, is a
31 public record and shall not be confidential under section
32 232.147.

33 2. The court, its designee, or law enforcement officials
34 are authorized to release the complaint, including the
35 identity of the child named in the complaint.

1 Sec. 42. NEW SECTION. 915.72 VICTIM IMPACT STATEMENT BY
2 VICTIM OF JUVENILE.

3 1. If a complaint is filed under section 232.28, alleging
4 a child has committed a delinquent act, the alleged victim may
5 file a signed victim impact statement with the juvenile court.

6 2. The victim impact statement shall be considered by the
7 court and the juvenile court officer handling the complaint in
8 any proceeding or informal adjustment associated with the
9 complaint.

10 3. Unless the matter is disposed of at the preliminary
11 inquiry conducted by the intake officer under section 232.28,
12 the victim may also be allowed to orally present the victim
13 impact statement.

14 Sec. 43. NEW SECTION. 915.73 SEXUAL ASSAULT BY JUVENILE.

15 A victim of a sexual assault by a juvenile adjudicated to
16 have committed the assault is entitled to the rights listed in
17 sections 915.40 through 915.44.

18 Sec. 44. NEW SECTION. 915.74 RESTITUTION FOR DELINQUENT
19 ACTS OF JUVENILE.

20 1. If a judge of a juvenile court finds that a juvenile
21 has committed a delinquent act and requires the juvenile to
22 compensate the victim of that act for losses due to the
23 delinquent act of the juvenile, the juvenile shall make such
24 restitution according to a schedule established by the judge
25 from funds earned by the juvenile pursuant to employment
26 engaged in by the juvenile at the time of disposition.

27 2. If a juvenile enters into an informal adjustment
28 agreement pursuant to section 232.29 to make such restitution,
29 the juvenile shall make such restitution according to a
30 schedule which shall be a part of the informal adjustment
31 agreement.

32 3. The restitution shall be made under the direction of a
33 juvenile court officer working under the direction of the
34 juvenile court.

35 a. In those counties where the county maintains an office

1 to provide juvenile victim restitution services, the juvenile
2 court officer may use that office's services.

3 b. If the juvenile is not employed, the juvenile's
4 juvenile court officer shall make a reasonable effort to find
5 private or other public employment for the juvenile.

6 c. If the juvenile offender does not have employment at
7 the time of disposition and private or other public employment
8 is not obtained in spite of the efforts of the juvenile's
9 juvenile court officer, the judge may direct the juvenile
10 offender to perform work pursuant to section 232.52,

11 subsection 2, paragraph "a", and arrange for compensation of
12 the juvenile in the manner provided for under chapter 232A.

13 Sec. 45. NEW SECTION. 915.75 NOTIFICATION OF VICTIM OF
14 JUVENILE BY DEPARTMENT OF HUMAN SERVICES.

15 The department of human services shall notify a registered
16 victim regarding a juvenile adjudicated delinquent for a
17 violent crime, committed to the custody of the department of
18 human services, and placed at the state training school at
19 Eldora or Toledo, of the following:

20 1. The date on which the juvenile is expected to be
21 temporarily released from the custody of the department of
22 human services, and whether the juvenile is expected to return
23 to the community where the registered victim resides.

24 2. The juvenile's escape from custody.

25 3. The recommendation by the department to consider the
26 juvenile for release or placement.

27 4. The date on which the juvenile is expected to be
28 released from a facility pursuant to a plan of placement.

29 Sec. 46. Sections 915.80 through 915.94, as enacted in
30 this Act, are enacted as a new subchapter of chapter 915,
31 entitled "Victim Compensation".

32 Sec. 47. NEW SECTION. 915.80 DEFINITIONS.

33 As used in this subchapter, unless the context otherwise
34 requires:

35 1. "Compensation" means moneys awarded by the department

1 as authorized in this subchapter.

2 2. "Crime" means conduct that occurs or is attempted in
3 this state, poses a substantial threat of personal injury or
4 death, and is punishable as a felony or misdemeanor, or would
5 be so punishable but for the fact that the person engaging in
6 the conduct lacked the capacity to commit the crime under the
7 laws of this state. "Crime" does not include conduct arising
8 out of the ownership, maintenance, or use of a motor vehicle,
9 motorcycle, motorized bicycle, train, boat, or aircraft except
10 for violations of section 321.261, 321.277, 321J.2, 462A.14,
11 or 707.6A, or when the intention is to cause personal injury
12 or death. A license revocation under section 321J.9 or
13 321J.12 shall be considered by the department as evidence of a
14 violation of section 321J.2 for the purposes of this
15 subchapter.

16 3. "Department" means the department of justice.

17 4. "Dependent" means a person wholly or partially
18 dependent upon a victim for care or support and includes a
19 child of the victim born after the victim's death.

20 5. "Secondary victim" means the victim's spouse, children,
21 parents, and siblings, and any person who resides in the
22 victim's household at the time of the crime or at the time of
23 the discovery of the crime. Secondary victim does not include
24 persons who are the survivors of a victim who dies as a result
25 of a crime.

26 6. "Victim" means a person who suffers personal injury or
27 death as a result of any of the following:

28 a. A crime.

29 b. The good faith effort of a person attempting to prevent
30 a crime.

31 c. The good faith effort of a person to apprehend a person
32 suspected of committing a crime.

33 Sec. 48. NEW SECTION. 915.81 AWARD OF COMPENSATION.

34 The department shall award compensation authorized by this
35 subchapter if the department is satisfied that the

1 requirements for compensation have been met.

2 Sec. 49. NEW SECTION. 915.82 CRIME VICTIM ASSISTANCE
3 BOARD.

4 1. A crime victim assistance board is established, and
5 shall consist of the following members to be appointed
6 pursuant to rules adopted by the department:

7 a. A county attorney or assistant county attorney.

8 b. Two persons engaged full-time in law enforcement.

9 c. A public defender or an attorney practicing primarily
10 in criminal defense.

11 d. A hospital medical staff person involved with emergency
12 services.

13 e. Two public members who have received victim services.

14 f. A victim service provider.

15 g. A person licensed pursuant to chapter 154B or 154C.

16 h. A person representing the elderly.

17 Board members shall be reimbursed for expenses actually and
18 necessarily incurred in the discharge of their duties.

19 2. The board shall adopt rules pursuant to chapter 17A
20 relating to program policies and procedures.

21 3. A victim aggrieved by the denial or disposition of the
22 victim's claim may appeal to the district court within thirty
23 days of receipt of the board's decision.

24 Sec. 50. NEW SECTION. 915.83 DUTIES OF DEPARTMENT.

25 The department shall:

26 1. Adopt rules pursuant to chapter 17A relating to the
27 administration of the crime victim compensation program,
28 including the filing of claims pursuant to the program, and
29 the hearing and disposition of the claims.

30 2. Hear claims, determine the results relating to claims,
31 and reinvestigate and reopen cases as necessary.

32 3. Publicize through the department, county sheriff
33 departments, municipal police departments, county attorney
34 offices, and other public or private agencies, the existence
35 of the crime victim compensation program, including the

1 procedures for obtaining compensation under the program.

2 4. Request from the department of human services, the
3 department of workforce development and its division of
4 industrial services, the department of public safety, the
5 county sheriff departments, the municipal police departments,
6 the county attorneys, or other public authorities or agencies
7 reasonable assistance or data necessary to administer the
8 crime victim compensation program.

9 5. Require medical examinations of victims as needed. The
10 victim shall be responsible for the cost of the medical
11 examination if compensation is made. The department shall be
12 responsible for the cost of the medical examination from funds
13 appropriated to the department for the crime victim
14 compensation program if compensation is not made to the victim
15 unless the cost of the examination is payable as a benefit
16 under an insurance policy or subscriber contract covering the
17 victim or the cost is payable by a health maintenance
18 organization.

19 6. Receive moneys collected pursuant to section 904.702
20 for the purpose of compliance with Pub. L. No. 98-473.

21 Sec. 51. NEW SECTION. 915.84 APPLICATION FOR
22 COMPENSATION.

23 1. To claim compensation under the crime victim
24 compensation program, a person shall apply in writing on a
25 form prescribed by the department and file the application
26 with the department within two years after the date of the
27 crime, the discovery of the crime, or the date of death of the
28 victim.

29 2. A person is not eligible for compensation unless the
30 crime was reported to the local police department or county
31 sheriff department within seventy-two hours of its occurrence.
32 If the crime cannot reasonably be reported within that time
33 period, the crime shall have been reported within seventy-two
34 hours of the time a report can reasonably be made. The
35 department may waive this requirement if good cause is shown.

1 3. Notwithstanding subsection 2, a victim under the age of
2 eighteen or dependent adult as defined in section 235B.1 who
3 has been sexually abused or subjected to any other unlawful
4 sexual conduct under chapter 709 or 726 or who has been the
5 subject of a forcible felony is not required to report the
6 crime to the local police department or county sheriff
7 department to be eligible for compensation if the crime was
8 allegedly committed upon a child by a person responsible for
9 the care of a child, as defined in section 232.68, subsection
10 7, or upon a dependent adult by a caretaker as defined in
11 section 235B.1, and was reported to an employee of the
12 department of human services and the employee verifies the
13 report to the department.

14 4. When immediate or short-term medical services or mental
15 health services are provided to a victim under section 915.31,
16 the department of human services shall file the claim for
17 compensation as provided in subsection 3 for the victim.

18 5. When immediate or short-term medical services to a
19 victim are provided pursuant to section 915.31 by a
20 professional licensed or certified by the state to provide
21 such services, the professional shall file the claim for
22 compensation, unless the department of human services is
23 required to file the claim under this section. The
24 requirement to report the crime to the local police department
25 or county sheriff department under subsection 2 does not apply
26 to this subsection.

27 6. The victim shall cooperate with reasonable requests by
28 the appropriate law enforcement agencies in the investigation
29 or prosecution of the crime.

30 Sec. 52. NEW SECTION. 915.85 COMPENSATION PAYABLE.

31 The department may order the payment of compensation:

- 32 1. To or for the benefit of the person filing the claim.
- 33 2. To a person responsible for the maintenance of the
34 victim who has suffered pecuniary loss or incurred expenses as
35 a result of personal injury to the victim.

1 3. To or for the benefit of one or more dependents of the
2 victim, in the case of death of the victim. If two or more
3 dependents are entitled to compensation, the compensation may
4 be apportioned by the department as the department determines
5 to be fair and equitable among the dependents.

6 4. To a victim of an act committed outside this state who
7 is a resident of this state, if the act would be compensable
8 had it occurred within this state and the act occurred in a
9 state that does not have an eligible crime victim compensation
10 program, as defined in the federal Victims of Crime Act of
11 1984, Pub. L. 98-473, section 1403(b), as amended and codified
12 in 42 U.S.C. § 10602(b).

13 5. To or for the benefit of a resident of this state who
14 is a victim of an act of terrorism as defined in 18 U.S.C. §
15 2331, which occurred outside of the United States.

16 Sec. 53. NEW SECTION. 915.86 COMPUTATION OF
17 COMPENSATION.

18 The department shall award compensation, as appropriate,
19 for any of the following economic losses incurred as a direct
20 result of an injury to or death of the victim:

21 1. Reasonable charges incurred for medical care not to
22 exceed ten thousand five hundred dollars. Reasonable charges
23 incurred for mental health care not to exceed three thousand
24 dollars which includes services provided by a psychologist
25 licensed under chapter 154B, a person holding at least a
26 master's degree in social work or counseling and guidance, or
27 a victim counselor as defined in section 915.53.

28 2. Loss of income from work the victim would have
29 performed and for which the victim would have received
30 remuneration if the victim had not been injured, not to exceed
31 six thousand dollars.

32 3. Reasonable replacement value of clothing that is held
33 for evidentiary purposes not to exceed one hundred dollars.

34 4. Reasonable funeral and burial expenses not to exceed
35 five thousand dollars.

1 5. Loss of support for dependents resulting from death or
2 a period of disability of the victim of sixty days or more not
3 to exceed two thousand dollars per dependent or a total of six
4 thousand dollars.

5 6. In the event of a victim's death, reasonable charges
6 incurred for counseling the victim's spouse, children,
7 parents, siblings, or persons cohabiting with or related by
8 blood or affinity to the victim if the counseling services are
9 provided by a psychologist licensed under chapter 154B, a
10 victim counselor as defined in section 236A.1, subsection 1,
11 or an individual holding at least a master's degree in social
12 work or counseling and guidance, and reasonable charges
13 incurred by such persons for medical care counseling provided
14 by a psychiatrist licensed under chapter 147 or 150A. The
15 allowable charges under this subsection shall not exceed three
16 thousand dollars per person or a total of six thousand dollars
17 per victim death.

18 7. In the event of a victim's death, reasonable charges
19 incurred for health care for the victim's spouse, children,
20 parents, siblings, or persons related by blood or affinity to
21 the victim not to exceed three thousand dollars per survivor.

22 8. Reasonable expenses incurred for cleaning the scene of
23 a homicide, if the scene is a residence, not to exceed one
24 thousand dollars.

25 9. Reasonable charges incurred for mental health care for
26 secondary victims which include the services provided by a
27 psychologist licensed under chapter 154B, a person holding at
28 least a master's degree in social work, counseling, or a
29 related field, a victim counselor as defined in section
30 236A.1, or a psychiatrist licensed under chapter 147, 148, or
31 150A. The allowable charges under this subsection shall not
32 exceed one thousand dollars per secondary victim or a total of
33 six thousand dollars.

34 Sec. 54. NEW SECTION. 915.87 REDUCTIONS AND
35 DISQUALIFICATIONS.

1 Compensation is subject to reduction and disqualification
2 as follows:

3 1. Compensation shall be reduced by the amount of any
4 payment received, or to be received, as a result of the injury
5 or death:

6 a. From or on behalf of, a person who committed the crime
7 or who is otherwise responsible for damages resulting from the
8 crime.

9 b. From an insurance payment or program, including but not
10 limited to workers' compensation or unemployment compensation.

11 c. From public funds.

12 d. As an emergency award under section 915.91.

13 2. Compensation shall not be made when the bodily injury
14 or death for which a benefit is sought was caused by any of
15 the following:

16 a. Consent, provocation, or incitement by the victim.

17 b. The victim assisting, attempting, or committing a
18 criminal act.

19 Sec. 55. NEW SECTION. 915.88 COMPENSATION WHEN MONEY
20 INSUFFICIENT.

21 Notwithstanding this subchapter, a victim otherwise
22 qualified for compensation under the crime victim compensation
23 program is not entitled to the compensation when there is
24 insufficient money from the appropriation for the program to
25 pay the compensation.

26 Sec. 56. NEW SECTION. 915.89 ERRONEOUS OR FRAUDULENT
27 PAYMENT -- PENALTY.

28 1. If a payment or overpayment of compensation is made
29 because of clerical error, mistaken identity, innocent
30 misrepresentation by or on behalf of the recipient, or other
31 circumstances of a similar nature, not induced by fraud by or
32 on behalf of the recipient, the recipient is liable for
33 repayment of the compensation. The department may waive,
34 decrease, or adjust the amount of the repayment of the
35 compensation. However, if the department does not notify the

1 recipient of the erroneous payment or overpayment within one
2 year of the date the compensation was made, the recipient is
3 not liable for the repayment of the compensation.

4 2. If a payment or overpayment has been induced by fraud
5 by or on behalf of a recipient, the recipient is liable for
6 repayment of the compensation.

7 Sec. 57. NEW SECTION. 915.90 RELEASE OF INFORMATION.

8 A person in possession or control of investigative or other
9 information pertaining to an alleged crime or a victim filing
10 for compensation shall allow the inspection and reproduction
11 of the information by the department upon the request of the
12 department, to be used only in the administration and
13 enforcement of the crime victim compensation program.

14 Information and records which are confidential under section
15 22.7 and information or records received from the confidential
16 information or records remain confidential under this section.

17 A person does not incur legal liability by reason of
18 releasing information to the department as required under this
19 section.

20 Sec. 58. NEW SECTION. 915.91 EMERGENCY PAYMENT
21 COMPENSATION.

22 If the department determines that compensation may be made
23 and that undue hardship may result to the person if partial
24 immediate payment is not made, the department may order
25 emergency compensation to be paid to the person, not to exceed
26 five hundred dollars.

27 Sec. 59. NEW SECTION. 915.92 RIGHT OF ACTION AGAINST
28 PERPETRATOR -- SUBROGATION.

29 A right of legal action by the victim against a person who
30 has committed a crime is not lost as a consequence of a person
31 receiving compensation under the crime victim compensation
32 program. If a person receiving compensation under the program
33 seeks indemnification which would reduce the compensation
34 under section 915.87, subsection 1, the department is
35 subrogated to the recovery to the extent of payments by the

1 department to or on behalf of the person. The department has
2 a right of legal action against a person who has committed a
3 crime resulting in payment of compensation by the department
4 to the extent of the compensation payment. However, legal
5 action by the department does not affect the right of a person
6 to seek further relief in other legal actions.

7 Sec. 60. NEW SECTION. 915.93 RULEMAKING.

8 The department shall adopt rules pursuant to chapter 17A to
9 implement the procedures for reparation payments with respect
10 to section 915.31 and section 915.84, subsections 3, 4, and 5.

11 Sec. 61. NEW SECTION. 915.94 VICTIM COMPENSATION FUND.

12 A victim compensation fund is established as a separate
13 fund in the state treasury. Moneys deposited in the fund
14 shall be administered by the department and dedicated to and
15 used for the purposes of section 915.41 and this subchapter.
16 In addition, the department may use moneys from the fund for
17 the purposes of section 236.15 and for the award of funds to
18 programs that provide services and support to victims of
19 domestic abuse or sexual assault as provided in chapter 236.
20 Notwithstanding section 8.33, any balance in the fund on June
21 30 of any fiscal year shall not revert to the general fund of
22 the state.

23 Sec. 62. Sections 915.100 through 915.114, as enacted in
24 this Act, are enacted as a new subchapter of chapter 915,
25 entitled "Restitution".

26 Sec. 63. NEW SECTION. 915.100 DEFINITIONS.

27 As used in this subchapter, unless the context otherwise
28 requires:

29 1. "Criminal activities" means any crime for which there
30 is a plea of guilty, verdict of guilty, or special verdict
31 upon which a judgment of conviction is rendered and any other
32 crime committed after July 1, 1982, which is admitted or not
33 contested by the offender, whether or not prosecuted.
34 However, "criminal activities" does not include simple
35 misdemeanors under chapter 321.

1 2. "Local anticrime organization" means an entity
2 organized for the primary purpose of crime prevention which
3 has been officially recognized by the chief of police of the
4 city in which the organization is located or the sheriff of
5 the county in which the organization is located.

6 3. "Pecuniary damages" means all damages to the extent not
7 paid by an insurer, which a victim could recover against the
8 offender in a civil action arising out of the same facts or
9 event, except punitive damages and damages for pain,
10 suffering, mental anguish, and loss of consortium. Without
11 limitation, "pecuniary damages" includes damages for wrongful
12 death and expenses incurred for psychiatric or psychological
13 services or counseling or other counseling for the victim
14 which became necessary as a direct result of the criminal
15 activity.

16 4. "Restitution" means payment of pecuniary damages to a
17 victim in an amount and in the manner provided by the
18 offender's plan of restitution. "Restitution" also includes
19 fines, penalties, and surcharges, the contribution of funds to
20 a local anticrime organization which provided assistance to
21 law enforcement in an offender's case, the payment of crime
22 victim compensation program reimbursements, payment of
23 restitution to public agencies pursuant to section 321J.2,
24 subsection 9, paragraph "b", court costs including
25 correctional fees approved pursuant to section 356.7, court-
26 appointed attorney's fees, or the expense of a public
27 defender, and the performance of a public service by an
28 offender in an amount set by the court when the offender
29 cannot reasonably pay all or part of the court costs including
30 correctional fees approved pursuant to section 356.7, court-
31 appointed attorney's fees, or the expense of a public
32 defender.

33 5. "Victim" means a person who has suffered pecuniary
34 damages as a result of the offender's criminal activities.
35 However, for purposes of this subchapter, an insurer is not a

1 victim and does not have a right of subrogation. The crime
2 victim compensation program is not an insurer for purposes of
3 this subchapter, and the right of subrogation provided by
4 section 915.92 does not prohibit restitution to the crime
5 victim compensation program.

6 Sec. 64. NEW SECTION. 915.101 RESTITUTION OR COMMUNITY
7 SERVICE TO BE ORDERED BY SENTENCING COURT.

8 1. In all criminal cases in which there is a plea of
9 guilty, verdict of guilty, or special verdict upon which a
10 judgment of conviction is rendered, the sentencing court shall
11 order that restitution be made by each offender to all of the
12 following:

13 a. Victims of the offender's criminal activities.

14 b. The clerk of court for fines, penalties, and
15 surcharges.

16 c. To the extent that the offender is reasonably able to
17 pay, for crime victim assistance reimbursement, restitution to
18 public agencies pursuant to section 321J.2, subsection 9,
19 paragraph "b", court costs including correctional fees
20 approved pursuant to section 356.7, court-appointed attorney's
21 fees, or the expense of a public defender when applicable, or
22 contribution to a local anticrime organization.

23 2. Victims shall be paid in full pursuant to an order
24 issued under subsection 1 before fines, penalties, surcharges,
25 crime victim compensation program reimbursement, public
26 agencies, court costs including correctional fees approved
27 pursuant to section 356.7, court-appointed attorney's fees,
28 the expenses of a public defender, or contribution to a local
29 anticrime organization are paid.

30 3. In structuring a plan of restitution, the court shall
31 provide for payments in the following order of priority:
32 victim, fines, penalties, surcharges, crime victim
33 compensation program reimbursement, public agencies, court
34 costs including correctional fees approved pursuant to section
35 356.7, court-appointed attorney's fees, or the expense of a

1 public defender, and contribution to a local anticrime
2 organization.

3 4. When the offender is not reasonably able to pay all or
4 a part of the crime victim compensation program reimbursement,
5 public agency restitution, court costs including correctional
6 fees approved pursuant to section 356.7, court-appointed
7 attorney's fees, the expense of a public defender, or
8 contribution to a local anticrime organization, the court may
9 require the offender, in lieu of that portion of the crime
10 victim compensation program reimbursement, public agency
11 restitution, court costs including correctional fees approved
12 pursuant to section 356.7, court-appointed attorney's fees,
13 expense of a public defender, or contribution to a local
14 anticrime organization for which the offender is not
15 reasonably able to pay, to perform a needed public service for
16 a governmental agency or for a private nonprofit agency which
17 provides a service to the youth, elderly, or poor of the
18 community.

19 a. When community service is ordered, the court shall set
20 a specific number of hours of service to be performed by the
21 offender which, for payment of court-appointed attorney's fees
22 or expenses of a public defender, shall be approximately
23 equivalent in value to those costs.

24 b. The judicial district department of correctional
25 services shall provide for the assignment of the offender to a
26 public agency or private nonprofit agency to perform the
27 required service.

28 Sec. 65. NEW SECTION. 915.102 RESTITUTION FOR DELINQUENT
29 ACTS BY JUVENILES.

30 If a judge of a juvenile court finds that a juvenile has
31 committed a delinquent act, the judge may require the juvenile
32 to compensate the victim of that act for losses due to the
33 delinquent act of the juvenile, pursuant to section 915.74.

34 Sec. 66. NEW SECTION. 915.103 DETERMINATION OF AMOUNT OF
35 RESTITUTION.

1 The county attorney shall prepare a statement of pecuniary
2 damages to victims of the defendant and, if applicable, any
3 award by the crime victim compensation program and expenses
4 incurred by public agencies pursuant to section 321J.2,
5 subsection 9, paragraph "b", and shall provide the statement
6 to the presentence investigator or submit the statement to the
7 court at the time of sentencing. The clerk of court shall
8 prepare a statement of court-appointed attorney's fees, the
9 expense of a public defender, and court costs including
10 correctional fees claimed by a sheriff pursuant to section
11 356.7, which shall be provided to the presentence investigator
12 or submitted to the court at the time of sentencing. If these
13 statements are provided to the presentence investigator, they
14 shall become a part of the presentence report. If pecuniary
15 damage amounts are not available at the time of sentencing,
16 the county attorney shall provide a statement of pecuniary
17 damages incurred up to that time to the clerk of court. The
18 statement shall be provided no later than thirty days after
19 sentencing. If a defendant believes no person suffered
20 pecuniary damages, the defendant shall so state. If the
21 defendant has any mental or physical impairment which would
22 limit or prohibit the performance of a public service, the
23 defendant shall so state. The court may order a mental or
24 physical examination, or both, of the defendant to determine a
25 proper course of action. At the time of sentencing or at a
26 later date to be determined by the court, the court shall set
27 out the amount of restitution including the amount of public
28 service to be performed as restitution and the persons to whom
29 restitution must be paid. If the full amount of restitution
30 cannot be determined at the time of sentencing, the court
31 shall issue a temporary order determining a reasonable amount
32 for restitution identified up to that time. At a later date
33 as determined by the court, the court shall issue a permanent,
34 supplemental order, setting the full amount of restitution.
35 The court shall enter further supplemental orders, if

1 necessary. These court orders shall be known as the plan of
2 restitution.

3 Sec. 67. NEW SECTION. 915.104 NOTIFICATION OF A HOMICIDE
4 VICTIM'S COUNTY OF RESIDENCE.

5 The county attorney of a county in which a judgment of
6 conviction and sentence under section 707.2, 707.3, 707.4,
7 707.5, or 707.6A is rendered against a defendant relating to a
8 person's death shall notify in writing the clerk of the
9 district court of the county of the person's residence. Such
10 notification shall be for the purpose of the county of the
11 person's residence recovering from the defendant the fee and
12 expenses incurred investigating the person's death pursuant to
13 section 331.802, subsection 2.

14 Sec. 68. NEW SECTION. 915.105 RESTITUTION FOR DEATH OF
15 VICTIM.

16 1. In all criminal cases in which the offender is
17 convicted of a felony in which the act or acts committed by
18 the offender caused the death of another person, in addition
19 to the amount determined to be payable and ordered to be paid
20 to a victim for pecuniary damages, as defined under section
21 915.100, and determined under section 915.103, the court shall
22 also order the offender to pay at least one hundred fifty
23 thousand dollars in restitution to the victim's estate. The
24 obligation to pay the additional amount shall not be
25 dischargeable in any proceeding under the federal Bankruptcy
26 Act. Payment of the additional amount shall have the same
27 priority as payment of a victim's pecuniary damages under
28 section 915.101, in the offender's plan for restitution.

29 2. An award under this section does not preclude or
30 supersede the right of a victim's estate to bring a civil
31 action against the offender for damages arising out of the
32 same facts or event. However, no evidence relating to the
33 entry of the judgment against the offender pursuant to this
34 section or the amount of the award ordered pursuant to this
35 section shall be permitted to be introduced in any civil

1 action for damages arising out of the same facts or event.

2 3. An offender who is ordered to pay a victim's estate
3 under this section is precluded from denying the elements of
4 the felony offense which resulted in the order for payment in
5 any subsequent civil action for damages arising out of the
6 same facts or event.

7 Sec. 69. NEW SECTION. 915.106 CONDITION OF PROBATION --
8 PAYMENT PLAN.

9 1. When restitution is ordered by the sentencing court and
10 the offender is placed on probation, restitution shall be a
11 condition of probation.

12 a. Failure of the offender to comply with the plan of
13 restitution, plan of payment, or community service
14 requirements when community service is ordered by the court as
15 restitution, shall constitute a violation of probation and
16 shall constitute contempt of court.

17 b. If an offender fails to comply with restitution
18 requirements during probation, the court may hold the offender
19 in contempt, revoke probation, or extend the period of
20 probation.

21 (1) If the court extends the period of probation, it shall
22 not be for more than the maximum period of probation for the
23 offense committed as provided in section 907.7. After
24 discharge from probation or after the expiration of the period
25 of probation, the failure of an offender to comply with the
26 plan of restitution ordered by the court shall constitute
27 contempt of court.

28 (2) If an offender's probation is revoked, the offender's
29 assigned probation officer shall forward to the director of
30 the Iowa department of corrections, information concerning the
31 offender's restitution plan, restitution plan of payment, the
32 restitution payment balance, and any other pertinent
33 information concerning or affecting restitution by the
34 offender.

35 2. When the offender is committed to a county jail, or to

1 an alternate facility, the office or individual charged with
2 supervision of the offender shall prepare a restitution plan
3 of payment taking into consideration the offender's income,
4 physical and mental health, age, education, employment, and
5 family circumstances.

6 a. The office or individual charged with supervision of
7 the offender shall review the plan of restitution ordered by
8 the court and shall submit a restitution plan of payment to
9 the sentencing court.

10 b. When community service is ordered by the court as
11 restitution, the restitution plan of payment shall set out a
12 plan to meet the requirement for the community service.

13 c. The court may approve or modify the plan of restitution
14 and restitution plan of payment.

15 d. When there is a significant change in the offender's
16 income or circumstances, the office or individual which has
17 supervision of the plan of payment shall submit a modified
18 restitution plan of payment to the court.

19 3. When there is a transfer of supervision from one office
20 or individual charged with supervision of the offender to
21 another, the sending office or individual shall forward to the
22 receiving office or individual all necessary information
23 regarding the balance owed against the original amount of
24 restitution ordered and the balance of public service
25 required.

26 When the offender's circumstances and income have
27 significantly changed, the receiving office or individual
28 shall submit a new plan of payment to the sentencing court for
29 approval or modification based on the considerations
30 enumerated in this section.

31 Sec. 70. NEW SECTION. 915.107 CONDITION OF WORK RELEASE
32 OR PAROLE.

33 1. a. When an offender is committed to the custody of the
34 director of the Iowa department of corrections pursuant to a
35 sentence of confinement, the sentencing court shall forward to

1 the director a copy of the offender's restitution plan,
2 present restitution payment plan if any, and other pertinent
3 information concerning or affecting restitution by the
4 offender.

5 b. If the offender is committed to the custody of the
6 director after revocation of probation, all information
7 regarding the offender's restitution plan shall be forwarded
8 by the offender's probation officer.

9 c. An offender committed to a penal or correctional
10 facility of the state shall make restitution while placed in
11 that facility.

12 d. Upon commitment to the custody of the director of the
13 Iowa department of corrections, the director or the director's
14 designee shall prepare a restitution plan of payment or modify
15 any existing plan of payment.

16 (1) The new or modified plan of payment shall reflect the
17 offender's present circumstances concerning the offender's
18 income, physical and mental health, education, employment, and
19 family circumstances.

20 (2) The director or the director's designee may modify the
21 plan of payment at any time to reflect the offender's present
22 circumstances.

23 e. After the expiration of the offender's sentence, the
24 failure of an offender to comply with the plan of restitution
25 ordered by the court shall constitute contempt of court.

26 2. If an offender is to be placed on work release from an
27 institution under the control of the director of the Iowa
28 department of corrections, restitution shall be a condition of
29 work release.

30 a. The chief of the bureau of community correctional
31 services of the Iowa department of corrections shall prepare a
32 restitution plan of payment or may modify any previously
33 existing restitution plan of payment.

34 (1) The new or modified plan of payment shall reflect the
35 offender's present circumstances concerning the offender's

1 income, physical and mental health, education, employment, and
2 family circumstances.

3 (2) The bureau chief may modify the plan of payment at any
4 time to reflect the offender's present circumstances.

5 b. Failure of the offender to comply with the restitution
6 plan of payment, including the community service requirement,
7 if any, shall constitute a violation of a condition of work
8 release and the work release privilege may be revoked.

9 c. After the expiration of the offender's sentence, the
10 failure of an offender to comply with the plan of restitution
11 ordered by the court shall constitute contempt of court.

12 3. If an offender is to be placed on work release from a
13 facility under control of a county sheriff or the judicial
14 district department of correctional services, restitution
15 shall be a condition of work release.

16 a. The office or individual charged with supervision of
17 the offender shall prepare a restitution plan of payment or
18 may modify any previously existing restitution plan of
19 payment.

20 (1) The new or modified plan of payment shall reflect the
21 offender's present circumstances concerning the offender's
22 income, physical and mental health, education, employment, and
23 family circumstances.

24 (2) Failure of the offender to comply with the restitution
25 plan of payment including the community service requirement,
26 if any, constitutes a violation of a condition of work
27 release.

28 (3) The office or individual charged with supervision of
29 the offender may modify the plan of restitution at any time to
30 reflect the offender's present circumstances.

31 b. After the expiration of the offender's sentence, the
32 failure of an offender to comply with the plan of restitution
33 ordered by the court shall constitute contempt of court.

34 4. If an offender is to be placed on parole, restitution
35 shall be a condition of parole.

1 a. The district department of correctional services to
2 which the offender will be assigned shall prepare a
3 restitution plan of payment or may modify any previously
4 existing restitution plan of payment.

5 (1) The new or modified plan of payment shall reflect the
6 offender's present circumstances concerning the offender's
7 income, physical and mental health, education, employment, and
8 family circumstances.

9 (2) Failure of the offender to comply with the restitution
10 plan of payment including a community service requirement, if
11 any, shall constitute a violation of a condition of parole.

12 (3) The parole officer may modify the plan of payment any
13 time to reflect the offender's present circumstances.

14 (4) A restitution plan of payment or modified plan of
15 payment, prepared by a parole officer, must meet the approval
16 of the director of the district department of correctional
17 services.

18 b. After the expiration of the offender's sentence, the
19 failure of an offender to comply with the plan of restitution
20 ordered by the court shall constitute contempt of court.

21 5. The director of the Iowa department of corrections
22 shall adopt rules pursuant to chapter 17A concerning the
23 policies and procedures to be used in preparing and
24 implementing restitution plans of payment for offenders who
25 are committed to an institution under the control of the
26 director of the Iowa department of corrections, for offenders
27 who are to be released on work release from institutions under
28 the control of the director of the Iowa department of
29 corrections, for offenders who are placed on probation, and
30 for offenders who are released on parole.

31 Sec. 71. NEW SECTION. 915.108 PAYMENT PLAN -- COPY TO
32 VICTIMS.

33 An office or individual preparing a restitution plan of
34 payment or modified restitution plan of payment, when it is
35 approved by the court if approval is required under section

1 915.106, or when the plan is completed if court approval under
2 section 915.106 is not required, shall forward a copy to the
3 clerk of court in the county in which the offender was
4 sentenced. The clerk of court shall forward a copy of the
5 plan of payment or modified plan of payment to the victim or
6 victims.

7 Sec. 72. NEW SECTION. 915.109 PETITION FOR HEARING.

8 At any time during the period of probation, parole, or
9 incarceration, the offender or the office or individual who
10 prepared the offender's restitution plan may petition the
11 court on any matter related to the plan of restitution or
12 restitution plan of payment and the court shall grant a
13 hearing if on the face of the petition it appears that a
14 hearing is warranted. The court, at any time prior to the
15 expiration of the offender's sentence, may modify the plan of
16 restitution or the restitution plan of payment, or both, and
17 may extend the period of time for the completion of
18 restitution.

19 Sec. 73. NEW SECTION. 915.110 JUDGMENT -- ENFORCEMENT.

20 1. An order requiring an offender to pay restitution
21 constitutes a judgment and lien against all property of a
22 liable defendant for the amount the defendant is obligated to
23 pay under the order and may be recorded in any office for the
24 filing of liens against real or personal property.

25 2. A judgment of restitution may be enforced by the state,
26 a victim entitled under the order to receive restitution, a
27 deceased victim's estate, or any other beneficiary of the
28 judgment in the same manner as a civil judgment.

29 Sec. 74. NEW SECTION. 915.111 CIVIL LIABILITY.

30 This subchapter and proceedings under this subchapter do
31 not limit or impair the rights of victims to sue and recover
32 damages from the offender in a civil action. The institution
33 of a restitution plan shall toll the applicable statute of
34 limitations for a civil action arising out of the same facts
35 or event for the period of time that the restitution plan is

1 effective. However, any restitution payment by the offender
2 to a victim shall be set off against any judgment in favor of
3 the victim in a civil action arising out of the same facts or
4 event.

5 Sec. 75. NEW SECTION. 915.112 COLLECTION OF PAYMENTS --
6 PAYMENT BY CLERK OF COURT.

7 An offender making restitution pursuant to a restitution
8 plan of payment shall make the payment monthly to the clerk of
9 court of the county from which the offender was sentenced,
10 unless the restitution plan of payment provides otherwise.

11 The clerk of court shall maintain a record of all receipts
12 and disbursements of restitution payments and shall disburse
13 all moneys received to the victims designated in the plan of
14 restitution. If there is more than one victim, disbursements
15 to the victims shall be on the basis of the victim's
16 percentage of the total owed by the offender to all victims,
17 except that the clerk of court may decide the allocation of
18 payments of twenty dollars or less.

19 Fines, penalties, and surcharges, crime victim compensation
20 program reimbursement, public agency restitution, court costs,
21 court-appointed attorney's fees, and expenses for public
22 defenders shall not be withheld by the clerk of court until
23 all victims have been paid in full. Payments to victims shall
24 be made by the clerk of court at least quarterly. Payments by
25 a clerk of court shall be made no later than the last business
26 day of the quarter, but may be made more often at the
27 discretion of the clerk of court. The clerk of court
28 receiving final payment from an offender shall notify all
29 victims that full restitution has been made, and a copy of the
30 notice shall be sent to the sentencing court. Each office or
31 individual charged with supervising an offender who is
32 required to perform community service as full or partial
33 restitution shall keep records to assure compliance with the
34 portions of the plan of restitution and restitution plan of
35 payment relating to community service and, when the offender

1 has complied fully with the community service requirement,
2 notify the sentencing court.

3 Sec. 76. NEW SECTION. 915.113 RESTITUTION LIEN.

4 1. The state or a person entitled to restitution under a
5 court order may file a restitution lien.

6 2. The restitution lien shall set forth all of the
7 following information, if known:

8 a. The name and date of birth of the person whose property
9 or other interests are subject to the lien.

10 b. The present address of the residence and principal
11 place of business of the person named in the lien.

12 c. The criminal proceeding pursuant to which the lien is
13 filed, including the name of the court, the title of the
14 action, and the court's file number.

15 d. The name and business address of the attorney
16 representing the state in the proceeding pursuant to which the
17 lien is filed or the name and residence and business address
18 of each person entitled to restitution pursuant to a court
19 order.

20 e. A statement that the notice is being filed pursuant to
21 this section.

22 f. The amount of restitution the person has been ordered
23 to pay or is likely to be ordered to pay.

24 3. A restitution lien may be filed by either of the
25 following:

26 a. A prosecuting attorney in a criminal proceeding in
27 which restitution is likely to be sought after the filing of
28 an information or indictment. At the time of arraignment, the
29 prosecuting attorney shall give the defendant notice of any
30 restitution lien filed.

31 b. A victim in a criminal proceeding after restitution is
32 determined and ordered by the trial court following
33 pronouncement of the judgment and sentence.

34 4. The filing of a restitution lien in accordance with
35 this section creates a lien in favor of the state and the

1 victim in any personal or real property identified in the lien
2 to the extent of the interest held in that property by the
3 person named in the lien.

4 5. This section does not limit the right of the state or
5 any other person entitled to restitution to obtain any other
6 remedy authorized by law.

7 Sec. 77. NEW SECTION. 915.114 DISTRIBUTION OF MONEYS
8 RECEIVED AS A RESULT OF THE COMMISSION OF CRIME.

9 1. DEFINITIONS. As used in this section, unless the
10 context otherwise requires:

11 a. "Convicted felon" means a person initially convicted,
12 or found not guilty by reason of insanity, of a felony
13 committed in Iowa, either by a court or jury trial or by entry
14 of a guilty plea in court.

15 b. "Escrow account" includes, but is not limited to,
16 property in which the attorney general has assumed the powers
17 of a receiver as provided in this section.

18 c. "Felony" means a felony defined by any Iowa or United
19 States statute.

20 d. "Fruits of the crime" means any profit which, were it
21 not for the commission of the felony, would not have been
22 realized.

23 e. "Proceeds" means all of the fruits of the crime from
24 whatever source received by or owing to a felon or the felon's
25 representatives, whether earned, accrued, or paid before or
26 after the conviction. It includes any interest, earnings, or
27 accretions upon proceeds, and any property received in
28 exchange for proceeds.

29 f. "Representative of the convicted felon" means any
30 person or entity receiving proceeds by designation of that
31 convicted felon, or on behalf of that convicted felon, or in
32 the stead of that convicted felon, whether by the felon's
33 designation or by operation of law.

34 g. "Victim" means a person who has suffered physical,
35 mental, or emotional harm or financial loss as the result of a

1 felony committed in this state, for which the felon was
2 convicted. The term also includes the father, mother, son, or
3 daughter of a victim who died or was rendered incompetent as a
4 result of the offense or who was under eighteen years of age
5 at the time of the offense.

6 2. DUE PROCESS HEARING -- ACTION BY ATTORNEY GENERAL.

7 a. The attorney general may bring an action to require all
8 proceeds received by a convicted felon or representative of
9 the convicted felon to be deposited in an escrow account as
10 provided in this section.

11 b. The action may be brought in the county where the
12 convicted felon resides, or the county in which the proceeds
13 are located.

14 c. The action shall be preceded by notice to any
15 interested party.

16 d. The court shall order that all proceeds be deposited in
17 the escrow account until an order of disposition is made by
18 the court pursuant to subsection 3, 4, or 5 or until the
19 expiration of the escrow account as specified in subsection 8,
20 if the attorney general proves both of the following:

21 (1) The proceeds are fruits of the crime for which the
22 convicted felon was convicted.

23 (2) It is more probable than not that there are victims
24 who may recover a money judgment against the felon for
25 physical, mental, or emotional injury or pecuniary loss
26 proximately caused by the convicted felon as a result of the
27 felony for which the felon was convicted or there is an unpaid
28 order of restitution under this subchapter against the
29 convicted felon for the felony for which the felon was
30 convicted.

31 e. If the court orders that proceeds be deposited in an
32 escrow account and the nature of the proceeds to the person
33 initially convicted of the crime is such that it cannot be
34 placed in an escrow account, the attorney general shall assume
35 the powers of a receiver under chapter 680 in taking charge of

1 the property for benefit of and payable to any victim or
2 representative of the victim. In those instances, the date
3 the attorney general assumed the power of a receiver shall be
4 considered the date the escrow account was established for
5 purposes of this section.

6 3. NOTICE OF ESTABLISHMENT OF ESCROW ACCOUNT. Once an
7 escrow account is established, the attorney general shall make
8 reasonable efforts to notify victims and representatives of
9 victims of the escrow account and their possible rights under
10 this section. The reasonable efforts shall include, but are
11 not limited to, mailing the notification to known victims or
12 representatives of known victims. The cost of notification
13 shall be paid from the escrow account or from the sale of
14 property held in receivership.

15 4. PROCEEDS FOR LEGAL DEFENSE OF FELON. The attorney
16 general shall make payments from the escrow account or
17 property held in receivership to the person accused of the
18 crime upon the order of a court of competent jurisdiction
19 after a showing by the person that the money or other property
20 shall be used for the exclusive purpose of retaining legal
21 representation at any stage of the criminal proceedings
22 against the person, including the appeals process.

23 5. PAYMENT OF ESCROW FUNDS TO VICTIMS. The remaining
24 proceeds in escrow may be levied upon to satisfy an order for
25 restitution under this subchapter or a money judgment entered
26 against the convicted felon, by a court of competent
27 jurisdiction, for physical, mental, or emotional injury, or
28 pecuniary loss proximately caused by the convicted felon as a
29 result of the felony for which the felon was convicted.

30 6. PRIORITY AND PRORATION OF CLAIMS. Proceeds distributed
31 under subsection 3 shall have first priority, and proceeds
32 distributed for the cost of legal defense under subsection 4
33 shall have second priority in the distribution of proceeds in
34 the escrow account. If there are multiple orders for
35 restitution and judgments by victims under subsection 5

1 against the convicted felon, and the remaining proceeds in the
2 escrow account are insufficient to satisfy all of the orders
3 for restitution and judgments, the proceeds shall be
4 distributed on a pro rata basis based on the ratio that the
5 amount of an order for restitution or an individual victim's
6 judgment bears to the total amount of all restitution orders
7 and victims' judgments against the convicted felon which have
8 been claimed under this section.

9 7. LIMITATION OF ACTION. Notwithstanding section 614.1, a
10 victim or the victim's representative who has a cause of
11 action for a crime for which an escrow account or receivership
12 is established pursuant to this section may bring the action
13 against the escrow account or against the property in
14 receivership within five years of the date the escrow account
15 is established.

16 8. DURATION OF ESCROW ACCOUNT. Notwithstanding the other
17 provisions of this section, upon a disposition of charges
18 favorable to the person accused of committing the felony, or
19 upon a showing by the person that five years have elapsed from
20 the date of establishment of the escrow account and further
21 that no actions are pending against the person or unpaid
22 orders for restitution or monetary judgments outstanding
23 relating to the felony for which the felon was convicted, the
24 attorney general shall immediately pay over any money in the
25 escrow account to the person.

26 9. PURPOSE. The purpose of this section is to meet the
27 following compelling state interests:

28 a. The state has an interest in ensuring that victims of
29 crime are compensated by those who harm them.

30 b. The state has an interest in ensuring that criminals do
31 not profit from their felonious crimes at the expense of their
32 victims.

33 Sec. 78. Chapters 709B, 910, 910A, and 912, Code and Code
34 Supplement 1997, are repealed.

35 Sec. 79. The Code editor is directed to correct internal

1 references throughout the Code as necessary in conjunction
2 with the transfer of Code sections to and reenactment of Code
3 sections in Code chapter 915.

4 Sec. 80. EFFECTIVE DATE. This Act takes effect January 1,
5 1999.

6 EXPLANATION

7 This bill creates a new Code chapter combining all existing
8 Code sections pertaining to victim rights. New Code chapter
9 915 contains all provisions from Code chapters 709B, 910,
10 910A, and 912, relating to medial testing for convicted sexual
11 assault assailants, restitution, victim registration and
12 notification, and victim compensation. Some technical
13 revisions have been made because of the transfer of Code
14 sections to new subchapters and sections in Code chapter 915.
15 New Code chapter 915 also contains selected provisions from
16 other Code chapters.

17 New Code section 915.1 provides that the title is the
18 "Victim Rights Act".

19 New Code sections 915.2 and 915.3 are current Code sections
20 910A.18 and 910A.19.

21 New Code sections 915.10 through 915.23 are a subchapter of
22 proposed Code chapter 915, entitled "Registration,
23 Notification, and Rights in Criminal Proceedings".

24 New Code section 915.10 is current Code section 910A.2,
25 definitions relating to victims. New Code section 915.11 is
26 part of current Code section 910A.8, pertaining to notice to a
27 victim of the right to register as a victim with the county
28 attorney; the remainder of current Code section 910A.8 is
29 contained in new Code section 915.16, relating to
30 notifications that must be made to victims by local
31 correctional institutions.

32 New Code section 915.12 is the combination of current Code
33 sections 910A.2, relating to registration with the county
34 attorney, and 910A.17, regarding the confidentiality of a
35 victim's registration file. New Code sections 915.13, 915.14,

1 and 915.15 correspond to current Code sections 910A.6
2 (notification by the county attorney), 910A.7 (notification by
3 the clerk of the district court), and 910A.7A (notification by
4 the department of justice), respectively. New Code section
5 915.17 is current Code section 910A.9 (notification by the
6 department of corrections), and 904.108, subsection 6
7 (notification of prisoner escape). New Code section 915.18 is
8 current Code section 910A.10 (notification by the board of
9 parole). New Code sections 915.19 and 915.20 are current Code
10 sections 910A.10A (notification by the governor) and 910A.20
11 (right to presence of victim counselor in proceedings related
12 to the offense).

13 New Code section 915.21 contains portions of current Code
14 section 910A.5 relating to victim impact statements; the
15 remainder of current Code section 910A.5 is contained in new
16 Code section 915.72, regarding victim impact statements by
17 victims of juveniles. New Code section 915.22 is the same as
18 current Code section 910A.11, regarding the use of injunctions
19 to protect victims and witnesses. New Code section 915.23 is
20 current Code section 910A.12, relating to the right of
21 witnesses in criminal proceeding not to suffer discrimination
22 from employers.

23 New Code sections 915.30 through 915.35 are a new
24 subchapter of proposed Code chapter 915, entitled "Protections
25 for Witnesses and Other Special Witnesses". New Code section
26 915.30 is current Code section 232.69, relating to mandatory
27 reports of child abuse by certain categories of people. New
28 Code section 915.31 is current Code section 910A.16, relating
29 to services for child victims of sexual abuse. New Code
30 section 915.32 is current Code section 910A.13, relating to
31 protection of a child victim's privacy. New Code section
32 915.33 is current Code section 910A.15, relating to
33 appointment of a guardian ad litem for a child victim of
34 sexual abuse. New Code section 915.34 is current Code section
35 910A.14, permitting the use of televised and videotaped

1 testimony in certain circumstances for child and certain other
2 victims.

3 New Code sections 915.40 through 915.44 are a new
4 subchapter of proposed Code chapter 915, entitled "Victims of
5 Sexual Abuse". New Code section 915.40 is current Code
6 section 709B.1, definitions for current Code chapter 709B.
7 New Code section 915.42 and 915.43 are current Code sections
8 709B.2 and 709B.3, relating to HIV testing of an offender
9 convicted of sexual assault. New Code section 915.41 is
10 current Code section 709.10, relating to payment of medical
11 expenses for a sexual assault victim. New Code section 915.44
12 is current Code section 709.17, relating to the right to
13 refuse a polygraph that is offered as a prerequisite to an
14 investigation of sexual abuse.

15 New Code sections 915.50 through 915.56 are a new
16 subchapter of proposed Code chapter 915, entitled "Victims of
17 Domestic Abuse". New Code section 915.50 is current Code
18 section 236.12, subsection 1, relating to the right of a
19 domestic violence victim to request a peace officer to remain
20 on the scene, and the notification of rights by the peace
21 officer. New Code section 915.51 is current Code section
22 236.12, subsection 2 and 3, relating to the obligation to
23 arrest the primary physical aggressor. New Code section
24 915.52 is taken from current Code sections 236.3, 236.3A, and
25 236.3B, regarding the right to initiate a pro se action for
26 relief from domestic abuse, and to receive forms from the
27 clerk of the district court and assistance from the county
28 attorney. New Code section 915.53 is current Code section
29 236A.1, regarding the victim counselor privilege. New Code
30 section 915.54 is current Code section 236.11. New Code
31 section 915.55 is current Code section 236.14, subsection 2.
32 New Code section 915.56 is current Code section 236.10,
33 related to the sealing of domestic abuse files.

34 New Code sections 915.70 through 915.75 are a new
35 subchapter of proposed Code chapter 915, entitled "Victims of

1 Juveniles". New Code section 915.70 is substantially the same
2 as current Code section 232.28A, regarding the rights of a
3 victim of a juvenile. New Code section 915.71 is current Code
4 section 232.28, subsection 10, regarding access to certain
5 juvenile court files. New Code section 915.72 is composed of
6 parts of current Code sections 232.28, 232.28A, and 910A.5.
7 New Code section 915.73 is an entirely new code section,
8 indicating that victims of a sexual assault by a juvenile are
9 entitled to the rights in the previous subchapter in proposed
10 Code chapter 915, regarding the rights of victims of sexual
11 abuse. New Code section 915.74 is current Code section 232A.4
12 regarding restitution by juveniles. New Code section 915.75
13 is current Code section 910A.9A (notification by department of
14 human services).

15 New Code sections 915.80 through 915.94 are a new
16 subchapter of proposed Code chapter 915. The subchapter is
17 essentially composed of current Code chapter 912 (the sections
18 are in the same order), entitled "Victim Compensation".

19 New Code sections 915.100 through 915.114 are a new
20 subchapter of proposed Code chapter 915. The subchapter is
21 essentially composed of current Code chapter 910 (the sections
22 are in the same order), entitled "Restitution". A section on
23 juvenile restitution has been added.

24 The bill repeals current Code chapters 709B, 910, 910A, and
25 912, which have all been transferred to proposed Code chapter
26 915.

27 The bill directs the Code editor to make necessary internal
28 reference corrections throughout the Code, as required because
29 of the transfer of Code sections to new Code chapter 915. The
30 bill contains a delayed effective date of January 1, 1999, to
31 permit the Code editor the time necessary to make such
32 comprehensive changes.

33

34

35

HOUSE FILE 2527

AN ACT
PROVIDING FOR VICTIM RIGHTS, PROVIDING FOR PENALTIES, AND AN
EFFECTIVE DATE.

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

Section 1. NEW SECTION. 915.1 TITLE.

This chapter shall be known and may be cited as "Victim Rights Act".

Sec. 2. NEW SECTION. 915.2 IMMUNITY.

This chapter does not create a civil cause of action except where expressly stated, and a person is not liable for damages resulting from an act or omission in regard to any responsibility or authority created by this chapter, and such acts or omissions shall not be used in any proceeding for damages. This section does not apply to acts or omissions which constitute a willful and wanton disregard for the rights or safety of another.

Sec. 3. NEW SECTION. 915.3 IMMUNITY -- CITIZEN INTERVENTION.

Any person who, in good faith and without remuneration, renders reasonable aid or assistance to another against whom a crime is being committed or, if rendered at the scene of the crime, to another against whom a crime has been committed, is not liable for any civil damages for acts or omissions resulting from the aid or assistance, and is eligible to file a claim for reimbursement as a victim under this chapter.

Sec. 4. Sections 915.10 through 915.23, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Registration, Notification, and Rights in Criminal Proceedings".

Sec. 5. NEW SECTION. 915.10 DEFINITIONS.

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

1. "Notification" means mailing by regular mail or providing for hand delivery of appropriate information or papers. However, this notification procedure does not prohibit an agency from also providing appropriate information to a registered victim by telephone.

2. "Registered" means having provided the county attorney with the victim's written request for registration and current mailing address and telephone number.

3. "Victim" means a person who has suffered physical, emotional, or financial harm as the result of a public offense, other than a simple misdemeanor, committed in this state. "Victim" also includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

4. "Victim impact statement" means a written or oral presentation to the court by the victim or the victim's representative that indicates the physical, emotional, financial, or other effects of the offense upon the victim.

5. "Violent crime" means a forcible felony, as defined in section 702.11, and includes any other felony or aggravated misdemeanor which involved the actual or threatened infliction of physical or emotional injury on one or more persons.

Sec. 6. NEW SECTION. 915.11 INITIAL NOTIFICATION BY LAW ENFORCEMENT.

A local police department or county sheriff's department shall advise a victim of the right to register with the county attorney, and shall provide a request-for-registration form to each victim.

Sec. 7. NEW SECTION. 915.12 REGISTRATION.

1. The county attorney shall be the sole registrar of victims under this subchapter.

2. A victim may register by filing a written request-for-registration form with the county attorney. The county attorney shall notify the victims in writing and advise them of their registration and rights under this subchapter.

3. The county attorney shall provide a registered victim list to the offices, agencies, and departments required to provide information under this subchapter for notification purposes.

4. Notwithstanding chapter 22 or any other contrary provision of law, a victim's registration shall be strictly maintained in a separate confidential file, and shall be available only to the offices, agencies, and departments required to provide information under this subchapter.

Sec. 8. NEW SECTION. 915.13 NOTIFICATION BY COUNTY ATTORNEY.

1. The county attorney shall notify a victim registered with the county attorney's office of the following:

a. The scheduled date, time, and place of trial, and the cancellation or postponement of a court proceeding that was expected to require the victim's attendance, in any criminal case relating to the crime for which the person is a registered victim.

b. The possibility of assistance through the crime victim compensation program, and the procedures for applying for that assistance.

c. The right to restitution for pecuniary losses suffered as a result of crime, and the process for seeking such relief.

d. The victim's right to make a victim impact statement, in one or both of the following formats:

(1) Written victim impact statement. Notification shall include the procedures for filing such a statement.

(2) Oral victim impact statement, delivered in court in the presence of the defendant. The victim shall also be notified of the time and place for such statement.

e. The date on which the offender is released on bail or appeal, pursuant to section 811.5.

f. Except where the prosecuting attorney determines that disclosure of such information would unreasonably interfere with the investigation, at the request of the registered victim, notice of the status of the investigation shall be provided by law enforcement authorities investigating the case, until the alleged assailant is apprehended or the investigation is closed.

g. The right to be informed of any plea agreements related to the crime for which the person is a registered victim.

2. The county attorney and the juvenile court shall coordinate efforts so as to prevent duplication of notification under this section and section 915.24.

Sec. 9. NEW SECTION. 915.14 NOTIFICATION BY CLERK OF THE DISTRICT COURT.

The clerk of the district court shall notify a registered victim of all dispositional orders of the case in which the victim was involved and may advise the victim of any other orders regarding custody or confinement.

Sec. 10. NEW SECTION. 915.15 NOTIFICATION BY DEPARTMENT OF JUSTICE.

The department of justice shall notify a registered victim of the filing of an appeal, the expected date of decision on the appeal as the information becomes available to the department, all dispositional orders in the appeal, and the outcome of the appeal of a case in which the victim was involved.

Sec. 11. NEW SECTION. 915.16 NOTIFICATION BY LOCAL CORRECTIONAL INSTITUTIONS.

The county sheriff or other person in charge of the local jail or detention facility shall notify a registered victim of the following:

1. The offender's release from custody on bail and the terms or conditions of the release.

2. The offender's final release from local custody.

3. The offender's escape from custody.
4. The offender's transfer from local custody to custody in another locality.

Sec. 12. NEW SECTION. 915.17 NOTIFICATION BY DEPARTMENT OF CORRECTIONS.

1. The department of corrections shall notify a registered victim, regarding an offender convicted of a violent crime and committed to the custody of the director of the department of corrections, of the following:

- a. The date on which the offender is expected to be released from custody on work release, and whether the offender is expected to return to the community where the registered victim resides.
- b. The date on which the offender is expected to be temporarily released from custody on furlough, and whether the offender is expected to return to the community where the registered victim resides.
- c. The offender's escape from custody.
- d. The recommendation by the department of the offender for parole consideration.
- e. The date on which the offender is expected to be released from an institution pursuant to a plan of parole or upon discharge of sentence.
- f. The transfer of custody of the offender to another state or federal jurisdiction.
- g. The procedures for contacting the department to determine the offender's current institution of residence.
- h. Information which may be obtained upon request pertaining to or the procedures for obtaining information upon request pertaining to the offender's current employer.

2. The director of the department of corrections, or the director's designee, having probable cause to believe that a person has escaped from a state correctional institution or a person convicted of a forcible felony who is released on work release has absconded from a work release facility shall:

a. Make a complaint before a judge or magistrate. If it is determined from the complaint or accompanying affidavits that there is probable cause to believe that the person has escaped from a state correctional institution or that the forcible felon has absconded from a work release facility, the judge or magistrate shall issue a warrant for the arrest of the person.

b. Issue an announcement regarding the fact of the escape of the person or the abscondence of the forcible felon to the law enforcement authorities in, and to the news media covering, communities in a twenty-five mile radius of the point of escape or abscondence.

Sec. 13. NEW SECTION. 915.18 NOTIFICATION BY BOARD OF PAROLE.

1. The board of parole shall notify a registered victim regarding an offender who has committed a violent crime as follows:

a. Not less than twenty days prior to conducting a hearing at which the board will interview an offender, the board shall notify the victim of the interview and inform the victim that the victim may submit the victim's opinion concerning the release of the offender in writing prior to the hearing or may appear personally or by counsel at the hearing to express an opinion concerning the offender's release.

b. Whether or not the victim appears at the hearing or expresses an opinion concerning the offender's release on parole, the board shall notify the victim of the board's decision regarding release of the offender.

2. Offenders who are being considered for release on parole may be informed of a victim's registration with the county attorney and the substance of any opinion submitted by the victim regarding the release of the offender.

3. If the board of parole makes a recommendation to the governor for a reprieve, pardon, or commutation of sentence of an offender, as provided in section 914.3, the board shall

forward with the recommendation information identifying a registered victim for the purposes of notification by the governor as required in section 915.19.

Sec. 14. NEW SECTION. 915.19 NOTIFICATION BY THE GOVERNOR.

1. Prior to the governor granting a reprieve, pardon, or commutation to an offender convicted of a violent crime, the governor shall notify a registered victim that the victim's offender has applied for a reprieve, pardon, or commutation. The governor shall notify a registered victim regarding the application not less than forty-five days prior to issuing a decision on the application. The governor shall inform the victim that the victim may submit a written opinion concerning the application.

2. The county attorney may notify an offender being considered for a reprieve, pardon, or commutation of sentence of a victim's registration with the county attorney and the substance of any opinion submitted by the victim concerning the reprieve, pardon, or commutation of sentence.

Sec. 15. NEW SECTION. 915.20 PRESENCE OF VICTIM COUNSELORS.

1. As used in this section, unless the context otherwise requires:

a. "Proceedings related to the offense" means any activities engaged in or proceedings commenced by a law enforcement agency, judicial district department of correctional services, or a court pertaining to the commission of a public offense against the victim, in which the victim is present, as well as examinations of the victim in an emergency medical facility due to injuries from the public offense which do not require surgical procedures. "Proceedings related to the offense" includes, but is not limited to, law enforcement investigations, pretrial court hearings, trial and sentencing proceedings, and proceedings relating to the preparation of a presentence investigation report in which the victim is present.

b. "Victim counselor" means a victim counselor as defined in section 915.20A.

2. A victim counselor who is present as a result of a request by a victim shall not be denied access to any proceedings related to the offense.

3. This section does not affect the inherent power of the court to regulate the conduct of discovery pursuant to the Iowa rules of criminal or civil procedure or to preside over and control the conduct of criminal or civil hearings or trials.

Sec. 16. NEW SECTION. 915.20A VICTIM COUNSELOR PRIVILEGE.

1. As used in this section:

a. "Confidential communication" means information shared between a crime victim and a victim counselor within the counseling relationship, and includes all information received by the counselor and any advice, report, or working paper given to or prepared by the counselor in the course of the counseling relationship with the victim.

Confidential information is confidential information which, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the counselor is consulted by the victim.

b. "Crime victim center" means any office, institution, agency, or crisis center offering assistance to victims of crime and their families through crisis intervention, accompaniment during medical and legal proceedings, and follow-up counseling.

c. "Victim" means a person who consults a victim counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a violent crime committed against the person.

d. "Victim counselor" means a person who is engaged in a crime victim center, is certified as a counselor by the crime victim center, and is under the control of a direct services supervisor of a crime victim center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of crime. To qualify as a "victim counselor" under this section, the person must also have completed at least twenty hours of training provided by the center in which the person is engaged, by the Iowa organization of victim assistance, by the Iowa coalition against sexual abuse, or by the Iowa coalition against domestic violence, which shall include but not be limited to, the dynamics of victimization, substantive laws relating to violent crime, sexual assault, and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of crime.

2. A victim counselor shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by a victim to the counselor, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of a victim counselor be required to produce evidence of any such confidential communication, unless the victim waives this privilege in writing or disclosure of the information is compelled by a court pursuant to subsection 7. Under no circumstances shall the location of a crime victim center or the identity of the victim counselor be disclosed in any civil or criminal proceeding.

3. If a victim is deceased or has been declared to be incompetent, this privilege specified in subsection 2 may be waived by the guardian of the victim or by the personal representative of the victim's estate.

4. A minor may waive the privilege under this section unless, in the opinion of the court, the minor is incapable of knowingly and intelligently waiving the privilege, in which case the parent or guardian of the minor may waive the privilege on the minor's behalf if the parent or guardian is not the defendant and does not have such a relationship with the defendant that the parent or guardian has an interest in the outcome of the proceeding being favorable to the defendant.

5. The privilege under this section does not apply in matters of proof concerning the chain of custody of evidence, in matters of proof concerning the physical appearance of the victim at the time of the injury or the counselor's first contact with the victim after the injury, or where the counselor has reason to believe that the victim has given perjured testimony and the defendant or the state has made an offer of proof that perjury may have been committed.

6. The failure of a counselor to testify due to this section shall not give rise to an inference unfavorable to the cause of the state or the cause of the defendant.

7. Upon the motion of a party, accompanied by a written offer of proof, a court may compel disclosure of certain information if the court determines that all of the following conditions are met:

a. The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding.

b. The probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the counseling relationship, and the treatment services.

c. The information cannot be obtained by reasonable means from any other source.

8. In ruling on a motion under subsection 7, the court, or a different judge, if the motion was filed in a criminal proceeding to be tried to the court, shall adhere to the following procedure:

a. The court may require the counselor from whom disclosure is sought or the victim claiming the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the victim and any other persons the victim is willing to have present.

b. If the court determines that the information is privileged and not subject to compelled disclosure, the information shall not be disclosed by any person without the consent of the victim.

c. If the court determines that certain information may be subject to disclosure, as provided in subsection 7, the court shall so inform the party seeking the information and shall order a subsequent hearing out of the presence of the jury, if any, at which the parties shall be allowed to examine the counselor regarding the information which the court has determined may be subject to disclosure. The court may accept other evidence at that time.

d. At the conclusion of a hearing under paragraph "c", the court shall determine which information, if any, shall be disclosed and may enter an order describing the evidence which may be introduced by the moving party and prescribing the line of questioning which may be permitted. The moving party may then offer evidence pursuant to the court order. However, no victim counselor is subject to exclusion under Iowa rule of evidence 615.

9. This section does not relate to the admission of evidence of the victim's past sexual behavior which is strictly subject to Iowa rule of evidence 412.

Sec. 17. NEW SECTION. 915.21 VICTIM IMPACT STATEMENT.

1. A victim may present a victim impact statement to the court using one or more of the following methods:

a. A victim may file a signed victim impact statement with the county attorney, and a filed impact statement shall be included in the presentence investigation report. If a presentence investigation report is not ordered by the court,

a filed victim impact statement shall be provided to the court prior to sentencing.

b. A victim may orally present a victim impact statement at the sentencing hearing, in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

c. If the victim is unable to make an oral or written statement because of the victim's age, or mental, emotional, or physical incapacity, the victim's attorney or a designated representative shall have the opportunity to make a statement on behalf of the victim.

2. A victim impact statement shall include the identification of the victim of the offense, and may include the following:

a. Itemization of any economic loss suffered by the victim as a result of the offense. For purposes of this paragraph, a pecuniary damages statement prepared by a county attorney pursuant to section 910.3 may serve as the itemization of economic loss.

b. Identification of any physical injury suffered by the victim as a result of the offense with detail as to its seriousness and permanence.

c. Description of any change in the victim's personal welfare or familial relationships as a result of the offense.

d. Description of any request for psychological services initiated by the victim or the victim's family as a result of the offense.

e. Any other information related to the impact of the offense upon the victim.

Sec. 18. NEW SECTION. 915.22 CIVIL INJUNCTION TO RESTRAIN HARASSMENT OR INTIMIDATION OF VICTIMS OR WITNESSES.

1. Upon application, the court shall issue a temporary restraining order prohibiting the harassment or intimidation of a victim or witness in a criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that

harassment or intimidation of an identified victim or witness in a criminal case exist or that the order is necessary to prevent and restrain an offense under this subchapter.

a. A temporary restraining order may be issued under this subsection without written or oral notice to the adverse party or the party's attorney in a civil action under this section or in a criminal case if the court finds, upon written certification of facts, that the notice should not be required and that there is a reasonable probability that the party will prevail on the merits. The temporary restraining order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

b. A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed immediately in the office of the clerk of the district court issuing the order.

c. A temporary restraining order issued under this section shall expire at such time as the court directs, not to exceed ten days from issuance. The court, for good cause shown before expiration of the order, may extend the expiration date of the order for up to ten days, or for a longer period agreed to by the adverse party.

d. When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. If the party does not proceed with the application for a protective order when the motion is heard, the court shall dissolve the temporary restraining order.

e. If, after two days' notice to the party or after a shorter notice as the court prescribes, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine the motion as expeditiously as possible.

2. Upon motion of the party, the court shall issue a protective order prohibiting the harassment or intimidation of a victim or witness in a criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment or intimidation of an identified victim or witness in a criminal case exists or that the order is necessary to prevent and restrain an offense under this chapter.

a. At the hearing, any adverse party named in the complaint has the right to present evidence and cross-examine witnesses.

b. A protective order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

c. The court shall set the duration of the protective order for the period it determines is necessary to prevent the harassment or intimidation of the victim or witness, but the duration shall not be set for a period in excess of one year from the date of the issuance of the order. The party, at any time within ninety days before the expiration of the order, may apply for a new protective order under this section.

3. Violation of a restraining or protective order issued under this section constitutes contempt of court and may be punished by contempt proceedings.

4. An application may be made pursuant to this section in a criminal case, and if made, a district associate judge or magistrate having jurisdiction of the highest offense charged in the criminal case or a district judge shall have jurisdiction to enter an order under this section.

5. The clerk of the district court shall provide notice and copies of restraining orders issued pursuant to this section in a criminal case involving an alleged violation of section 708.2A to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications or vacations of these orders in the same manner.

Sec. 19. NEW SECTION. 915.23 EMPLOYMENT DISCRIMINATION AGAINST WITNESSES PROHIBITED.

1. An employer shall not discharge an employee from, or take or fail to take action, regarding an employee's promotion or proposed promotion, or take action to reduce an employee's wages or benefits, for actual time worked, due to the service of an employee as a witness in a criminal proceeding.

2. An employer who violates this section commits a simple misdemeanor.

3. An employee whose employer violates this section shall also be entitled to recover damages from the employer. Damages recoverable under this section include, but are not limited to, actual damages, court costs, and reasonable attorney fees.

4. The employee may also petition the court for imposition of a cease and desist order against the person's employer and for reinstatement to the person's previous position of employment.

Sec. 20. Sections 915.24 through 915.29, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Victims of Juveniles".

Sec. 21. NEW SECTION. 915.24 NOTIFICATION OF VICTIM OF JUVENILE BY JUVENILE COURT OFFICER.

1. If a complaint is filed alleging that a child has committed a delinquent act, a juvenile court officer shall notify the alleged victim, as defined in section 915.10, of the following rights:

a. To be notified of the names and addresses of the child and of the child's custodial parent or guardian.

b. To be notified of the specific charge or charges filed in a petition resulting from the complaint and regarding any dispositional orders or informal adjustments.

c. To be informed of the person's rights to restitution.

d. To be notified of the person's right to offer a written victim impact statement and to orally present the victim impact statement.

e. To be informed of the availability of assistance through the crime victim compensation program.

2. The juvenile court and the county attorney shall coordinate efforts so as to prevent duplication of notification under this section and section 915.13.

Sec. 22. NEW SECTION. 915.25 RIGHT TO REVIEW COMPLAINT AGAINST JUVENILE.

1. A complaint filed with the court or its designee pursuant to chapter 232 which alleges that a child who is at least ten years of age has committed a delinquent act, which if committed by an adult would be a public offense, is a public record and shall not be confidential under section 232.147.

2. The court, its designee, or law enforcement officials are authorized to release the complaint, including the identity of the child named in the complaint.

Sec. 23. NEW SECTION. 915.26 VICTIM IMPACT STATEMENT BY VICTIM OF JUVENILE.

1. If a complaint is filed under section 232.28, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court.

2. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint.

3. Unless the matter is disposed of at the preliminary inquiry conducted by the intake officer under section 232.28, the victim may also be allowed to orally present the victim impact statement.

Sec. 24. NEW SECTION. 915.27 SEXUAL ASSAULT BY JUVENILE.

A victim of a sexual assault by a juvenile adjudicated to have committed the assault is entitled to the rights listed in sections 915.40 through 915.44.

Sec. 25. NEW SECTION. 915.28 RESTITUTION FOR DELINQUENT ACTS OF JUVENILE.

1. If a judge of a juvenile court finds that a juvenile has committed a delinquent act and requires the juvenile to compensate the victim of that act for losses due to the delinquent act of the juvenile, the juvenile shall make such restitution according to a schedule established by the judge from funds earned by the juvenile pursuant to employment engaged in by the juvenile at the time of disposition.

2. If a juvenile enters into an informal adjustment agreement pursuant to section 232.29 to make such restitution, the juvenile shall make such restitution according to a schedule which shall be a part of the informal adjustment agreement.

3. The restitution shall be made under the direction of a juvenile court officer working under the direction of the juvenile court.

a. In those counties where the county maintains an office to provide juvenile victim restitution services, the juvenile court officer may use that office's services.

b. If the juvenile is not employed, the juvenile's juvenile court officer shall make a reasonable effort to find private or other public employment for the juvenile.

c. If the juvenile offender does not have employment at the time of disposition and private or other public employment is not obtained in spite of the efforts of the juvenile's juvenile court officer, the judge may direct the juvenile offender to perform work pursuant to section 232.52, subsection 2, paragraph "a", and arrange for compensation of the juvenile in the manner provided for under chapter 232A.

Sec. 26. NEW SECTION. 915.29 NOTIFICATION OF VICTIM OF JUVENILE BY DEPARTMENT OF HUMAN SERVICES.

The department of human services shall notify a registered victim regarding a juvenile adjudicated delinquent for a violent crime, committed to the custody of the department of human services, and placed at the state training school at Eldora or Toledo, of the following:

1. The date on which the juvenile is expected to be temporarily released from the custody of the department of human services, and whether the juvenile is expected to return to the community where the registered victim resides.

2. The juvenile's escape from custody.

3. The recommendation by the department to consider the juvenile for release or placement.

4. The date on which the juvenile is expected to be released from a facility pursuant to a plan of placement.

Sec. 27. Sections 915.35 through 915.38, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Protections for Children and Other Special Victims".

Sec. 28. NEW SECTION. 915.35 CHILD VICTIM SERVICES.

1. As used in this section, "victim" means a child under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

To the greatest extent possible, a multidisciplinary team involving the county attorney, law enforcement personnel, community-based child advocacy organizations, and personnel of the department of human services shall be utilized in investigating and prosecuting cases involving a violation of chapter 709 or 726 or other crime committed upon a victim as defined in subsection 1. A multidisciplinary team may also consult with or include juvenile court officers, medical and mental health professionals, court-appointed special advocates, guardians ad litem, and members of a

multidisciplinary team created by the department of human services for child abuse investigations. The department of justice may provide training and other assistance to support the activities of a multidisciplinary team referred to in this subsection.

Sec. 29. NEW SECTION. 915.36 PROTECTION OF CHILD VICTIM'S PRIVACY.

1. Prior to an arrest or the filing of an information or indictment, whichever occurs first, against a person charged with a violation of chapter 709, section 726.2, or section 728.12, committed with or on a child, as defined in section 702.5, the identity of the child or any information reasonably likely to disclose the identity of the child shall not be released to the public by any public employee except as authorized by the court of jurisdiction.

2. In order to protect the welfare of the child, the name of the child and identifying biographical information shall not appear on the information or indictment or any other public record. Instead, a nondescriptive designation shall appear on all public records. The nonpublic records containing the child's name and identifying biographical information shall be kept by the court. This subsection does not apply to the release of information to an accused or accused's counsel; however, the use or release of this information by the accused or accused's counsel for purposes other than the preparation of defense constitutes contempt.

3. A person who willfully violates this section or who willfully neglects or refuses to obey a court order made pursuant to this section commits contempt.

4. A release of information in violation of this section does not bar prosecution or provide grounds for dismissal of charges.

Sec. 30. NEW SECTION. 915.37 GUARDIAN AD LITEM FOR PROSECUTING CHILD WITNESSES.

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness's interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The guardian ad litem shall be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian ad litem. If a guardian ad litem has previously been appointed for the child in a proceeding under chapter 232 or a proceeding in which the juvenile court has waived jurisdiction under section 232.45, the court shall appoint the same guardian ad litem under this section. The guardian ad litem shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the guardian ad litem shall file reports to the court as required by the court. If a prosecuting witness is fourteen, fifteen, sixteen, or seventeen years of age, and would be entitled to the appointment of a guardian ad litem if the prosecuting witness were a child, the court may appoint a guardian ad litem if the requirements for guardians ad litem in this section are met, and the guardian ad litem agrees to participate without compensation.

References in this section to a guardian ad litem shall be interpreted to include references to a court-appointed special advocate as defined in section 232.2, subsection 9.

Sec. 31. NEW SECTION. 915.38 TELEVISED, VIDEOTAPED, AND RECORDED EVIDENCE -- LIMITED COURT TESTIMONY -- MINORS AND OTHERS.

1. Upon its own motion or upon motion of any party, a court may protect a minor, as defined in section 599.1, from

trauma caused by testifying in the physical presence of the defendant where it would impair the minor's ability to communicate, by ordering that the testimony of the minor be taken in a room other than the courtroom and be televised by closed-circuit equipment for viewing in the courtroom. However, such an order shall be entered only upon a specific finding by the court that such measures are necessary to protect the minor from trauma. Only the judge, prosecuting attorney, defendant's attorney, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the minor may be present in the room with the minor during the minor's testimony. The judge shall inform the minor that the defendant will not be present in the room in which the minor will be testifying but that the defendant will be viewing the minor's testimony through closed-circuit television.

During the minor's testimony the defendant shall remain in the courtroom and shall be allowed to communicate with the defendant's counsel in the room where the minor is testifying by an appropriate electronic method.

In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a minor, as defined in section 599.1, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the minor is unavailable as provided in Iowa rules of evidence 804(a), order the videotaping of the minor's testimony for viewing in the courtroom by the court.

The videotaping shall comply with the provisions of rule of criminal procedure 12(2)(b), and shall be admissible as evidence in the trial. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

3. The court may upon motion of a party admit into evidence the recorded statements of a child, as defined in section 702.5, describing sexual contact performed with or on the child, not otherwise admissible in evidence by statute or court rule if the court determines that the recorded statements substantially comport with the requirements for admission under Iowa rules of evidence 803(24) or 804(b)(5).

4. A court may, upon its own motion or upon the motion of a party, order the court testimony of a child to be limited in duration in accordance with the developmental maturity of the child. The court may consider or hear expert testimony in order to determine the appropriate limitation on the duration of a child's testimony. However, the court shall, upon motion, limit the duration of a child's uninterrupted testimony to one hour, at which time the court shall allow the child to rest before continuing to testify.

Sec. 32. Sections 915.40 through 915.44, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Victims of Sexual Assault".

Sec. 33. NEW SECTION. 915.40 DEFINITIONS.

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

1. "AIDS" means acquired immune deficiency syndrome as defined by the centers for disease control of the United States department of health and human services.

2. "Convicted offender" means a person convicted of a sexual assault or a juvenile who has been adjudicated delinquent for an act of sexual assault.

3. "Department" means the Iowa department of public health.
 4. "Division" means the crime victims assistance division of the office of the attorney general.
 5. "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.
 6. "HIV-related test" means a test for the antibody or antigen to HIV.
 7. "Petitioner" means a person who is the victim of a sexual assault which resulted in alleged significant exposure or the parent, guardian, or custodian of a victim if the victim is a minor, for whom the county attorney files a petition with the district court to require the convicted offender to undergo an HIV-related test.
 8. "Sexual assault" means sexual abuse as defined in section 709.1, or any other sexual offense by which a victim has allegedly had sufficient contact with a convicted offender to be deemed a significant exposure.
 9. "Significant exposure" means contact of the victim's ruptured or broken skin or mucous membranes with the blood or bodily fluids, other than tears, saliva, or perspiration of the convicted offender. "Significant exposure" is presumed to have occurred when there is a showing that there was penetration of the convicted offender's penis into the victim's vagina or anus, contact between the mouth and genitalia, or contact between the genitalia of the offender and the genitalia or anus of the victim.
 10. "Victim counselor" means a person who is engaged in a crime victim center as defined in section 915.20A, who is certified as a counselor by the crime victim center, and who has completed at least twenty hours of training provided by the Iowa coalition against sexual assault or a similar agency.
- Sec. 34. NEW SECTION. 915.41 MEDICAL EXAMINATION COSTS.
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 paid from the fund established in section 915.94.

Sec. 35. NEW SECTION. 915.42 RIGHT TO HIV-TESTING OF CONVICTED ASSAILANT.

1. Unless a petitioner chooses to be represented by private counsel, the county attorney shall represent the victim's interest in all proceedings under this subchapter.
2. If a person is convicted of sexual assault or adjudicated delinquent for an act of sexual assault, the county attorney, if requested by the petitioner, shall petition the court for an order requiring the convicted offender to submit to an HIV-related test, provided that all of the following conditions are met:
 - a. The sexual assault for which the offender was convicted or adjudicated delinquent included sufficient contact between the victim and the convicted offender to be deemed a significant exposure pursuant to section 915.40.
 - b. The authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted offender to the testing.
 - c. Written informed consent was not provided by the convicted offender.
3. Upon receipt of the petition filed under subsection 2, the court shall:
 - a. Prior to the scheduling of a hearing, refer the victim for counseling by a victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, regarding the nature, reliability, and significance of the HIV-related test and of the serologic status of the convicted offender.
 - b. Schedule a hearing to be held as soon as is practicable.
 - c. Cause written notice to be served on the convicted offender who is the subject of the proceeding, in accordance with the rules of civil procedure relating to the service of

original notice, or if the convicted offender is represented by legal counsel, provide written notice to the convicted offender and the convicted offender's legal counsel.

d. Provide for the appointment of legal counsel for a convicted offender if the convicted offender desires but is financially unable to employ counsel.

e. Furnish legal counsel with copies of the petition.

4. a. A hearing under this section shall be conducted in an informal manner consistent with orderly procedure and in accordance with the Iowa rules of evidence. The hearing shall be limited in scope to the review of questions of fact only as to the issue of whether the sexual assault for which the offender was convicted or adjudicated delinquent provided sufficient contact between the victim and the convicted offender to be deemed a significant exposure and to questions of law.

b. In determining whether the contact should be deemed a significant exposure, the court shall base the determination on the testimony presented during the proceedings on the sexual assault charge, the minutes of the testimony or other evidence included in the court record, or if a plea of guilty was entered, based upon the complaint or upon testimony provided during the hearing.

c. The victim may testify at the hearing but shall not be compelled to testify. The court shall not consider the refusal of a victim to testify at the hearing as material to the court's decision regarding issuance of an order requiring testing.

d. The hearing shall be in camera unless the convicted offender and the petitioner agree to a hearing in open court and the court approves. The report of the hearing proceedings shall be sealed and no report of the proceedings shall be released to the public, except with the permission of all parties and the approval of the court.

e. Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings unless waived by the parties.

5. Following the hearing, the court shall require a convicted offender to undergo an HIV-related test only if the petitioner proves all of the following by a preponderance of the evidence:

a. The sexual assault constituted a significant exposure.

b. An authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted offender.

c. Written informed consent was not provided by the convicted offender.

6. A convicted offender who is required to undergo an HIV-related test may appeal to the court for review of questions of law only, but may appeal questions of fact if the findings of fact are clearly erroneous.

Sec. 36. NEW SECTION. 915.43 TESTING, REPORTING, AND COUNSELING -- PENALTIES.

1. The physician or other practitioner who orders the test of a convicted offender for HIV under this subchapter shall disclose the results of the test to the convicted offender and to the victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, who shall disclose the results to the petitioner.

2. All testing under this chapter shall be accompanied by pretest and posttest counseling as required under section 141.22.

3. Subsequent testing arising out of the same incident of exposure shall be conducted in accordance with the procedural and confidentiality requirements of this subchapter.

4. Results of a test performed under this subchapter, except as provided in subsection 14, shall be disclosed only to the physician or other practitioner who orders the test of

the convicted offender, the convicted offender, the victim, the victim counselor or person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, the physician of the victim if requested by the victim, and the parent, guardian, or custodian of the victim, if the victim is a minor. Results of a test performed under this subchapter shall not be disclosed to any other person without the written informed consent of the convicted offender. A person to whom the results of a test have been disclosed under this subchapter is subject to the confidentiality provisions of section 141.23, and shall not disclose the results to another person except as authorized by section 141.23, subsection 1.

5. If testing is ordered under this subchapter, the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole if the physician or other practitioner who ordered the initial test of the convicted offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV-related test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted offender was HIV-infected at the time the sexual assault was perpetrated. The results of the test conducted pursuant to this subsection shall be released only to the physician or other practitioner who orders the test of the convicted offender, the convicted offender, the victim counselor or person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, who shall disclose the results to the petitioner, and the physician of the victim, if requested by the victim.

6. The court shall not consider the disclosure of an alleged offender's serostatus to an alleged victim, prior to conviction, as a basis for a reduced plea or reduced sentence.

7. The fact that an HIV-related test was performed under this subchapter and the results of the test shall not be included in the convicted offender's medical or criminal record unless otherwise included in department of corrections records.

8. The fact that an HIV-related test was performed under this subchapter and the results of the test shall not be used as a basis for further prosecution of a convicted offender in relation to the incident which is the subject of the testing, to enhance punishments, or to influence sentencing.

9. If the serologic status of a convicted offender, which is conveyed to the victim, is based upon an HIV-related test other than a test which is authorized as a result of the procedures established in this subchapter, legal protections which attach to such testing shall be the same as those which attach to an initial test under this subchapter, and the rights to a predisclosure hearing and to appeal provided under section 915.42 shall apply.

10. HIV-related testing required under this subchapter shall be conducted by the state hygienic laboratory.

11. Notwithstanding the provisions of this subchapter requiring initial testing, if a petition is filed with the court under section 915.42 requesting an order for testing and the order is granted, and if a test has previously been performed on the convicted offender while under the control of the department of corrections, the test results shall be provided in lieu of the performance of an initial test of the convicted offender, in accordance with this subchapter.

12. Test results shall not be disclosed to a convicted offender who elects against disclosure.

13. In addition to the counseling received by a victim, referral to appropriate health care and support services shall be provided.

14. In addition to persons to whom disclosure of the results of a convicted offender's HIV-related test results is

authorized under this subchapter, the victim may also disclose the results to the victim's spouse, persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault, or members of the victim's family within the third degree of consanguinity.

15. A person to whom disclosure of a convicted offender's HIV-related test results is authorized under this subchapter shall not disclose the results to any other person for whom disclosure is not authorized under this subchapter. A person who intentionally or recklessly makes an unauthorized disclosure in violation of this subsection is subject to a civil penalty of one thousand dollars. The attorney general or the attorney general's designee may maintain a civil action to enforce this subchapter. Proceedings maintained under this subsection shall provide for the anonymity of the test subject and all documentation shall be maintained in a confidential manner.

Sec. 37. NEW SECTION. 915.44 POLYGRAPH EXAMINATIONS OF VICTIMS OR WITNESSES -- LIMITATIONS.

1. A criminal or juvenile justice agency shall not require a person claiming to be a victim of sexual assault or claiming to be a witness regarding the sexual assault of another person to submit to a polygraph or similar examination as a precondition to the agency conducting an investigation into the matter.

2. An agency wishing to perform a polygraph examination of a person claiming to be a victim or witness of sexual assault shall inform the person of the following:

- a. That taking the polygraph examination is voluntary.
- b. That the results of the examination are not admissible in court.
- c. That the person's decision to submit or refuse a polygraph examination will not be the sole basis for a decision by the agency not to investigate the matter.

3. An agency which declines to investigate an alleged case of sexual assault following a decision by a person claiming to be a victim not to submit to a polygraph examination shall provide to that person, in writing, the reasons why the agency did not pursue the investigation at the request of the person.

Sec. 38. Section 915.50, as enacted in this Act, is enacted as a new subchapter of chapter 915 entitled "Victims of Domestic Abuse".

Sec. 39. NEW SECTION. 915.50 GENERAL RIGHTS OF DOMESTIC ABUSE VICTIMS.

In addition to other victim rights provided in this chapter, victims of domestic abuse shall have the following rights:

1. The right to file a pro se petition for relief from domestic abuse in the district court, pursuant to sections 236.3 through 236.10.

2. The right, pursuant to section 236.12, for law enforcement to remain on the scene, to assist the victim in leaving the scene, to transport the victim to medical care, and to provide the person with a written statement of victim rights and information about domestic abuse shelters, support services, and crisis lines.

3. The right to receive a criminal no-contact order upon a finding of probable cause, pursuant to section 236.14.

Sec. 40. Sections 915.80 through 915.94, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Victim Compensation".

Sec. 41. NEW SECTION. 915.80 DEFINITIONS.

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

1. "Compensation" means moneys awarded by the department as authorized in this subchapter.

2. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony or misdemeanor, or would

be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 321.261, 321.277, 321J.2, 462A.14, or 707.6A, or when the intention is to cause personal injury or death. A license revocation under section 321J.9 or 321J.12 shall be considered by the department as evidence of a violation of section 321J.2 for the purposes of this subchapter.

3. "Department" means the department of justice.

4. "Dependent" means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.

5. "Secondary victim" means the victim's spouse, children, parents, and siblings, and any person who resides in the victim's household at the time of the crime or at the time of the discovery of the crime. Secondary victim does not include persons who are the survivors of a victim who dies as a result of a crime.

6. "Victim" means a person who suffers personal injury or death as a result of any of the following:

a. A crime.

b. The good faith effort of a person attempting to prevent a crime.

c. The good faith effort of a person to apprehend a person suspected of committing a crime.

Sec. 42. NEW SECTION. 915.81 AWARD OF COMPENSATION.

The department shall award compensation authorized by this subchapter if the department is satisfied that the requirements for compensation have been met.

Sec. 43. NEW SECTION. 915.82 CRIME VICTIM ASSISTANCE BOARD.

1. A crime victim assistance board is established, and shall consist of the following members to be appointed pursuant to rules adopted by the department:
 - a. A county attorney or assistant county attorney.
 - b. Two persons engaged full-time in law enforcement.
 - c. A public defender or an attorney practicing primarily in criminal defense.
 - d. A hospital medical staff person involved with emergency services.
 - e. Two public members who have received victim services.
 - f. A victim service provider.
 - g. A person licensed pursuant to chapter 154B or 154C.
 - h. A person representing the elderly.

Board members shall be reimbursed for expenses actually and necessarily incurred in the discharge of their duties.

2. The board shall adopt rules pursuant to chapter 17A relating to program policies and procedures.

3. A victim aggrieved by the denial or disposition of the victim's claim may appeal to the district court within thirty days of receipt of the board's decision.

Sec. 44. NEW SECTION. 915.83 DUTIES OF DEPARTMENT.

The department shall:

1. Adopt rules pursuant to chapter 17A relating to the administration of the crime victim compensation program, including the filing of claims pursuant to the program, and the hearing and disposition of the claims.

2. Hear claims, determine the results relating to claims, and reinvestigate and reopen cases as necessary.

3. Publicize through the department, county sheriff departments, municipal police departments, county attorney offices, and other public or private agencies, the existence of the crime victim compensation program, including the procedures for obtaining compensation under the program.

4. Request from the department of human services, the department of workforce development and its division of

industrial services, the department of public safety, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim compensation program.

5. Require medical examinations of victims as needed. The victim shall be responsible for the cost of the medical examination if compensation is made. The department shall be responsible for the cost of the medical examination from funds appropriated to the department for the crime victim compensation program if compensation is not made to the victim unless the cost of the examination is payable as a benefit under an insurance policy or subscriber contract covering the victim or the cost is payable by a health maintenance organization.

6. Receive moneys collected pursuant to section 904.702 for the purpose of compliance with Pub. L. No. 98-473.

Sec. 45. NEW SECTION. 915.84 APPLICATION FOR COMPENSATION.

1. To claim compensation under the crime victim compensation program, a person shall apply in writing on a form prescribed by the department and file the application with the department within two years after the date of the crime, the discovery of the crime, or the date of death of the victim.

2. A person is not eligible for compensation unless the crime was reported to the local police department or county sheriff department within seventy-two hours of its occurrence. If the crime cannot reasonably be reported within that time period, the crime shall have been reported within seventy-two hours of the time a report can reasonably be made. The department may waive this requirement if good cause is shown.

3. Notwithstanding subsection 2, a victim under the age of eighteen or dependent adult as defined in section 235B.1 who has been sexually abused or subjected to any other unlawful

sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for compensation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 7, or upon a dependent adult by a caretaker as defined in section 235B.1, and was reported to an employee of the department of human services and the employee verifies the report to the department.

4. When immediate or short-term medical services or mental health services are provided to a victim under section 915.35, the department of human services shall file the claim for compensation as provided in subsection 3 for the victim.

5. When immediate or short-term medical services to a victim are provided pursuant to section 915.35 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for compensation, unless the department of human services is required to file the claim under this section. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

6. The victim shall cooperate with reasonable requests by the appropriate law enforcement agencies in the investigation or prosecution of the crime.

Sec. 46. NEW SECTION. 915.85 COMPENSATION PAYABLE.

The department may order the payment of compensation:

1. To or for the benefit of the person filing the claim.

2. To a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of personal injury to the victim.

3. To or for the benefit of one or more dependents of the victim, in the case of death of the victim. If two or more dependents are entitled to compensation, the compensation may

be apportioned by the department as the department determines to be fair and equitable among the dependents.

4. To a victim of an act committed outside this state who is a resident of this state, if the act would be compensable had it occurred within this state and the act occurred in a state that does not have an eligible crime victim compensation program, as defined in the federal Victims of Crime Act of 1984, Pub. L. 98-473, section 1403(b), as amended and codified in 42 U.S.C. § 10602(b).

5. To or for the benefit of a resident of this state who is a victim of an act of terrorism as defined in 18 U.S.C. § 2331, which occurred outside of the United States.

Sec. 47. NEW SECTION. 915.86 COMPUTATION OF COMPENSATION.

The department shall award compensation, as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim:

1. Reasonable charges incurred for medical care not to exceed ten thousand five hundred dollars. Reasonable charges incurred for mental health care not to exceed three thousand dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 915.20A.

2. Loss of income from work the victim would have performed and for which the victim would have received remuneration if the victim had not been injured, not to exceed six thousand dollars.

3. Reasonable replacement value of clothing that is held for evidentiary purposes not to exceed one hundred dollars.

4. Reasonable funeral and burial expenses not to exceed five thousand dollars.

5. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed two thousand dollars per dependent or a total of six thousand dollars.

6. In the event of a victim's death, reasonable charges incurred for counseling the victim's spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 915.20A, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under chapter 147 or 150A. The allowable charges under this subsection shall not exceed three thousand dollars per person or a total of six thousand dollars per victim death.

7. In the event of a victim's death, reasonable charges incurred for health care for the victim's spouse, children, parents, siblings, or persons related by blood or affinity to the victim not to exceed three thousand dollars per survivor.

8. Reasonable expenses incurred for cleaning the scene of a homicide, if the scene is a residence, not to exceed one thousand dollars.

9. Reasonable charges incurred for mental health care for secondary victims which include the services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work, counseling, or a related field, a victim counselor as defined in section 915.20A, or a psychiatrist licensed under chapter 147, 148, or 150A. The allowable charges under this subsection shall not exceed one thousand dollars per secondary victim or a total of six thousand dollars.

Sec. 48. NEW SECTION. 915.87 REDUCTIONS AND DISQUALIFICATIONS.

Compensation is subject to reduction and disqualification as follows:

1. Compensation shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:

a. From or on behalf of, a person who committed the crime or who is otherwise responsible for damages resulting from the crime.

b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.

c. From public funds.

d. As an emergency award under section 915.91.

2. Compensation shall not be made when the bodily injury or death for which a benefit is sought was caused by any of the following:

a. Consent, provocation, or incitement by the victim.

b. The victim assisting, attempting, or committing a criminal act.

Sec. 49. NEW SECTION. 915.88 COMPENSATION WHEN MONEY INSUFFICIENT.

Notwithstanding this subchapter, a victim otherwise qualified for compensation under the crime victim compensation program is not entitled to the compensation when there is insufficient money from the appropriation for the program to pay the compensation.

Sec. 50. NEW SECTION. 915.89 ERRONEOUS OR FRAUDULENT PAYMENT -- PENALTY.

1. If a payment or overpayment of compensation is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient, or other circumstances of a similar nature, not induced by fraud by or on behalf of the recipient, the recipient is liable for repayment of the compensation. The department may waive, decrease, or adjust the amount of the repayment of the compensation. However, if the department does not notify the recipient of the erroneous payment or overpayment within one year of the date the compensation was made, the recipient is not liable for the repayment of the compensation.

2. If a payment or overpayment has been induced by fraud by or on behalf of a recipient, the recipient is liable for repayment of the compensation.

Sec. 51. NEW SECTION. 915.90 RELEASE OF INFORMATION.

A person in possession or control of investigative or other information pertaining to an alleged crime or a victim filing for compensation shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and enforcement of the crime victim compensation program. Information and records which are confidential under section 22.7 and information or records received from the confidential information or records remain confidential under this section.

A person does not incur legal liability by reason of releasing information to the department as required under this section.

Sec. 52. NEW SECTION. 915.91 EMERGENCY PAYMENT COMPENSATION.

If the department determines that compensation may be made and that undue hardship may result to the person if partial immediate payment is not made, the department may order emergency compensation to be paid to the person, not to exceed five hundred dollars.

Sec. 53. NEW SECTION. 915.92 RIGHT OF ACTION AGAINST PERPETRATOR -- SUBROGATION.

A right of legal action by the victim against a person who has committed a crime is not lost as a consequence of a person receiving compensation under the crime victim compensation program. If a person receiving compensation under the program seeks indemnification which would reduce the compensation under section 915.87, subsection 1, the department is subrogated to the recovery to the extent of payments by the department to or on behalf of the person. The department has a right of legal action against a person who has committed a crime resulting in payment of compensation by the department to the extent of the compensation payment. However, legal action by the department does not affect the right of a person to seek further relief in other legal actions.

Sec. 54. NEW SECTION. 915.93 RULEMAKING.

The department shall adopt rules pursuant to chapter 17A to implement the procedures for reparation payments with respect to section 915.35 and section 915.84, subsections 3, 4, and 5.

Sec. 55. NEW SECTION. 915.94 VICTIM COMPENSATION FUND.

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 915.41 and this subchapter. In addition, the department may use moneys from the fund for the purposes of section 236.15 and for the award of funds to programs that provide services and support to victims of domestic abuse or sexual assault as provided in chapter 236. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 56. Section 915.100, as enacted in this Act, is enacted as a new subchapter of chapter 915, entitled "Victim Restitution".

Sec. 57. NEW SECTION. 915.100 VICTIM RESTITUTION RIGHTS.

1. Victims, as defined in section 910.1, have the right to recover pecuniary damages, as defined in section 910.1.

2. The right to restitution includes the following:

a. In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgement of conviction is rendered, the sentencing court shall order that restitution be made by each offender to victims of the offender's criminal activities.

b. A judge may require a juvenile who has been found to have committed a delinquent act to compensate the victim of that act for losses due to the act.

c. In cases where the act committed by an offender causes the death of another person, in addition to the amount ordered for payment of the victim's pecuniary damages, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate.

d. The clerk of court shall forward a copy of the plan of payment or the modified plan of payment to the victim or victims.

e. Victims shall be paid in full pursuant to an order of restitution, before fines, penalties, surcharges, crime victim compensation program reimbursement, public agency reimbursement, court costs, correctional fees, court-appointed attorney fees, expenses of a public defender, or contributions to local anticrime organizations are paid.

f. A judgment of restitution may be enforced by a victim entitled under the order to receive restitution, or by a deceased victim's estate, in the same manner as a civil judgment.

g. A victim in a criminal proceeding who is entitled to restitution under a court order may file a restitution lien.

h. If a convicted felon attempts to profit from the commission of the crime, and the attorney general brings an action to recover such profits, the victim may be entitled to funds held in escrow, pursuant to the provisions of section 910.15.

1. The right to victim restitution for the pecuniary damages incurred by a victim as the result of a crime does not limit or impair the right of the victim to sue and recover damages from the offender in a civil action.

Sec. 58. Section 13.31, subsections 2 and 5, Code 1997, are amended to read as follows:

2. Administer the state crime victim compensation program as provided in chapter ~~912~~ 915.

5. Administer payment for sexual abuse medical examinations pursuant to section ~~709-10~~ 915.41.

Sec. 59. Section 22.7, subsection 2, Code Supplement 1997, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or

former counselee, including outpatient. However, confidential communications between a crime victim and the victim's counselor are not subject to disclosure except as provided in section ~~236A~~ 915.20A. However, the Iowa department of public health shall adopt rules which provide for the sharing of information among agencies and providers concerning the maternal and child health program including but not limited to the statewide child immunization information system, while maintaining an individual's confidentiality.

Sec. 60. Section 135.11, subsection 24, Code Supplement 1997, is amended to read as follows:

24. Adopt rules which provide for the testing of a convicted offender for the human immunodeficiency virus pursuant to ~~chapter-709B~~ sections 915.40 through 915.43. The rules shall provide for the provision of counseling, health care, and support services to the victim.

Sec. 61. Section 232.28, subsections 10 and 11, Code Supplement 1997, are amended by striking the subsections.

Sec. 62. Section 232.28A, subsection 1, paragraph d, Code Supplement 1997, is amended to read as follows:

d. To be notified of the person's right to offer a written victim impact statement and to orally present the victim impact statement under ~~sections 232-28-and-910A-5~~ 915.26.

Sec. 63. Section 232.147, subsections 2 and 9, Code Supplement 1997, are amended to read as follows:

2. Official juvenile court records in cases alleging delinquency, including complaints under section 232.28, shall be public records, subject to sealing under section 232.150. If the court has excluded the public from a hearing under division II of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter. Complaints under section 232.28 shall be released in accordance with ~~section 232-28~~ 915.25.

Other official juvenile court records may be released under this section by a juvenile court officer.

9. Release of official juvenile court records to a victim of a delinquent act is subject to the provisions of section ~~232-28A~~ 915.25, notwithstanding contrary provisions of this chapter.

Sec. 64. Section 235A.15, subsection 2, paragraph e, subparagraph (3), Code Supplement 1997, is amended to read as follows:

(3) To the department of justice for the sole purpose of the filing of a claim for restitution or compensation pursuant to ~~section-910A-5~~ sections 915.21 and ~~section-912-47~~ subsections-3-through-5 915.84. Data provided pursuant to this subparagraph is subject to the provisions of section ~~912-10~~ 915.90.

Sec. 65. Section 235B.6, subsection 2, paragraph e, subparagraph (3), Code Supplement 1997, is amended to read as follows:

(3) The department of justice for the sole purpose of the filing of a claim for reparation pursuant to ~~section-910A-5~~ sections 915.21 and ~~section-912-47-subsections-3-through-5~~ 915.84.

Sec. 66. Section 236.14, subsection 2, unnumbered paragraph 3, Code 1997, is amended to read as follows:

The clerk of the court or other person designated by the court shall provide a copy of this order to the victim pursuant to chapter ~~910A~~ 915. The order has force and effect until it is modified or terminated by subsequent court action in the contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of section 708.2A, the court shall modify the no-contact order issued by the magistrate to provide that the no-contact order shall continue in effect for a period of one year from the date that

the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation. Upon an application by the state which is filed within ninety days prior to the expiration of the modified no-contact order, the court shall modify and extend the no-contact order for an additional period of one year, if the court finds that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family. The number of modifications extending the no-contact order permitted by this subsection is not limited.

Sec. 67. Section 321J.17, subsection 1, Code Supplement 1997, is amended to read as follows:

1. If the department revokes a person's motor vehicle license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit one-half of the money in the separate fund established in section ~~912.14~~ 915.94 and one-half of the money shall be deposited in the general fund of the state. A motor vehicle license or nonresident operating privilege shall not be reinstated until the civil penalty has been paid.

Sec. 68. Section 331.653, subsection 65A, Code Supplement 1997, is amended to read as follows:

65A. Carry out the duties imposed under ~~section-910A.8~~ sections 915.11 and 915.16.

Sec. 69. Section 331.756, subsection 83A, Code Supplement 1997, is amended to read as follows:

83A. Carry out the duties imposed under ~~sections 910A.7-910A.57-and-910A.6~~ 915.12 and 915.13.

Sec. 70. Section 331.909, subsection 2, Code 1997, is amended to read as follows:

2. The activities of a multidisciplinary community services team shall not duplicate the activities of a

multidisciplinary team for child abuse under section 235A.13, dependent adult abuse activities under section 235B.6, area education agency activities under section 294A.14, or child victim services provided under section ~~910A.16~~ 915.35.

Sec. 71. Section 562A.27A, subsection 3, paragraph a, Code 1997, is amended to read as follows:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, or ~~910A~~ 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

Sec. 72. Section 562B.25A, subsection 3, paragraph a, Code 1997, is amended to read as follows:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, or ~~910A~~ 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

Sec. 73. Section 602.8108, subsection 3, paragraph b, Code 1997, is amended to read as follows:

b. Of the amount received from the clerk, the state court administrator shall allocate eighteen percent to be deposited in the fund established in section ~~912.14~~ 915.94 and eighty-two percent to be deposited in the general fund.

Sec. 74. Section 622.69, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Witness fees to be received by an inmate, while in the custody of the department of corrections, shall be applied either toward payment of any restitution owed by the inmate or to the crime victim compensation program established in ~~chapter-912~~ sections 915.80 through 915.94.

Sec. 75. Section 809.17, Code 1997, is amended to read as follows:

809.17 PROCEEDS APPLIED TO VARIOUS PROGRAMS.

Except as provided in section 809.21, proceeds from the disposal of seized property pursuant to this chapter may be transferred in whole or in part to the victim compensation fund created in section ~~912.14~~ 915.94 at the discretion of the recipient agency, political subdivision, or department.

Sec. 76. Section 904.108, subsection 6, Code Supplement 1997, is amended by striking the subsection.

Sec. 77. Section 904.602, subsection 3, Code 1997, is amended to read as follows:

3. Information identified in subsection 2 shall not be disclosed or used by any person or agency except for purposes of the administration of the department's programs of services or assistance and shall not, except as otherwise provided in ~~subsection 4~~ this section, be disclosed by the department or be used by persons or agencies outside the department unless they are subject to, or agree to, comply with standards of confidentiality comparable to those imposed on the department by this section.

Sec. 78. Section 904.602, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. Information described in subsection 2 which pertains to the name and address of the employer of an individual who is receiving or has received services shall be released upon request to an individual for the purpose of executing a judgment resulting from the individual's current or past criminal activity.

Sec. 79. Section 904.809, subsection 5, paragraph a, subparagraph (3), Code Supplement 1997, is amended to read as follows:

(3) Five percent of the balance to the victim compensation fund created in section ~~912.14~~ 915.94.

Sec. 80. Section 232A.4, 709.10, and 709.17, Code 1997, are repealed.

Sec. 81. Section 232.28A, Code Supplement 1997, is repealed.

Sec. 82. Chapters 709B, 910A, and 912, Code and Code Supplement 1997, are repealed.

Sec. 83. The Code editor is directed to correct internal references throughout the Code as necessary in conjunction with the transfer of Code sections to and reenactment of Code sections in Code chapter 915.

Sec. 84. EFFECTIVE DATE. This Act takes effect January 1, 1999.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2527, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 13, 1998

TERRY E. BRANSTAD
Governor