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H- 4/7/97 Do Pass

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SENATE FILE 118
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 59)

Passed Senate, Date 2-11-97 (p.251) Passed House, Date 4-10-97 (P.115)
Vote: Ayes 49 Nays 0 Vote: Ayes 97 Nays 0
Approved April 18, 1997

A BILL FOR

1 An Act relating to statutory corrections which may adjust
2 language to reflect current practices, insert earlier
3 omissions, delete redundancies and inaccuracies, delete
4 temporary language, resolve inconsistencies and conflicts,
5 update ongoing provisions, or remove ambiguities, and
6 providing effective and retroactive applicability dates.

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

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S.F. 118

1 Section 1. Section 74A.6, subsection 1, Code 1997, is
2 amended to read as follows:

3 1. The authority contained in this section shall be
4 exercised by a committee composed of the treasurer of state,
5 the superintendent of banking, the superintendent of credit
6 unions, and the auditor of state or a designee.

7 Sec. 2. Section 124.406, subsection 1, paragraph a, Code
8 1997, is amended to read as follows:

9 a. Unlawfully distributes or possesses with intent to
10 distribute a substance listed in schedule I or II to a person
11 under eighteen years of age commits a class "B" felony and
12 shall serve a minimum term of confinement of five years.
13 However, if the substance was distributed in or on, or within
14 one thousand feet of, the real property comprising a public or
15 private elementary or secondary school, ~~or-in-or-on-the-real~~
16 ~~property-comprising-a~~ public park, public swimming pool,
17 public recreation center, or on a marked school bus, the
18 person shall serve a minimum term of confinement of ten years.

19 Sec. 3. Section 124.406, subsection 2, paragraph a, Code
20 1997, is amended to read as follows:

21 a. Unlawfully distributes or possesses with the intent to
22 distribute a counterfeit substance listed in schedule I or II,
23 or a simulated controlled substance represented to be a
24 substance classified in schedule I or II, to a person under
25 eighteen years of age commits a class "B" felony. However, if
26 the substance was distributed in or on, or within one thousand
27 feet of, the real property comprising a public or private
28 elementary or secondary school, ~~or-in-or-on-the-real-property~~
29 ~~comprising-a~~ public park, public swimming pool, public
30 recreation center, or on a marked school bus, the person shall
31 serve a minimum term of confinement of ten years.

32 Sec. 4. Section 190.14, subsection 1, Code 1997, is
33 amended to read as follows:

34 1. The department shall administer this chapter consistent
35 with the provisions of the "Grade 'A' Pasteurized Milk

1 Ordinance,--1993-Revision", as provided in section 192.102.

2 Sec. 5. Section 191.9, subsection 1, Code 1997, is amended
3 to read as follows:

4 1. The department shall administer this chapter consistent
5 with the provisions of the "Grade 'A' Pasteurized Milk
6 Ordinance,--1993-Revision", as provided in section 192.102.

7 Sec. 6. Section 192.102, Code 1997, is amended to read as
8 follows:

9 192.102 GRADE "A" PASTEURIZED MILK ORDINANCE.

10 The department shall adopt, by rule, the "Grade 'A'
11 Pasteurized Milk Ordinance, 1993 1995 Revision", including a
12 subsequent revision of the ordinance. If the ordinance
13 specifies that compliance with a provision of the ordinance's
14 appendices is mandatory, the department shall also adopt that
15 provision. The department shall not amend the ordinance,
16 unless the department explains each amendment and reasons for
17 the amendment in the Iowa administrative bulletin when the
18 rules are required to be published pursuant to chapter 17A.
19 The department shall administer this chapter consistent with
20 the provisions of the ordinance.

21 Sec. 7. Section 192.110, subsection 2, Code 1997, is
22 amended to read as follows:

23 2. The facilities and equipment used to produce, store, or
24 transport milk or milk products comply with requirements of
25 the "Grade 'A' Pasteurized Milk Ordinance,--1993-Revision" as
26 provided in section 192.102.

27 Sec. 8. Section 542B.10, Code 1997, is amended to read as
28 follows:

29 542B.10 ANNUAL REPORT.

30 At the time provided by law, the board shall submit to the
31 governor a written report of its transactions for the
32 preceding year, and shall file with the secretary of state a
33 copy thereof, ~~together-with-a-complete-statement-of-the~~
34 ~~receipts-and-expenditures-of-the-board,~~ attested by the
35 affidavits of the chairperson and the secretary, and a

1 complete list of those licensed under this chapter with their
2 addresses and the dates of their certificates of licensure.
3 Said report shall be printed by the state and a copy mailed
4 to, and placed on file in the office of the clerk of each
5 incorporated city in the state and in the office of the
6 auditor of each county therein.

7 Sec. 9. Section 542C.3, subsection 3, unnumbered paragraph
8 2, Code 1997, is amended to read as follows:

9 The board shall make a biennial report to the governor of
10 its proceedings, with ~~an account of all moneys received and~~
11 ~~disbursed~~, a list of the names of certified public accountants
12 and accounting practitioners whose certificates, permits to
13 practice, or licenses have been revoked or suspended, and
14 other information as it deems proper or the governor requests.

15 Sec. 10. Section 544A.4, Code 1997, is amended to read as
16 follows:

17 544A.4 REPORT.

18 On or before the thirtieth day of June of each year the
19 board shall submit to the governor a report of its
20 transactions for the preceding year, ~~together with a complete~~
21 ~~statement of the receipts and expenditures of the board~~. This
22 report shall include a roster of the name, place of business
23 and number of certificate of registration of every registered
24 architect entitled to practice the profession in the state of
25 Iowa. A copy of this report shall be filed with the secretary
26 of state.

27 Sec. 11. Section 544B.6, Code 1997, is amended to read as
28 follows:

29 544B.6 ANNUAL REPORT.

30 Before the first day of July of each year the board shall
31 submit to the governor a report of its transactions for the
32 preceding year, ~~together with a complete statement of the~~
33 ~~receipts and expenditures of the board~~. This report shall
34 include the roster of registered landscape architects. A copy
35 of this report shall be filed with the secretary of state.

1 Sec. 12. Section 669.2, subsection 4, Code 1997, is
2 amended to read as follows:

3 4. "Employee of the state" includes any one or more
4 officers, agents, or employees of the state or any state
5 agency, including members of the general assembly, and persons
6 acting on behalf of the state or any state agency in any
7 official capacity, temporarily or permanently in the service
8 of the state of Iowa, whether with or without compensation,
9 but does not include a contractor doing business with the
10 state. Professional personnel, including physicians,
11 osteopathic physicians and surgeons, osteopathic physicians,
12 optometrists, dentists, nurses, physician assistants, and
13 other medical personnel, who render services to patients or
14 inmates of state institutions under the jurisdiction of the
15 department of human services, ~~and employees of the commission~~
16 ~~of veterans affairs,~~ or the Iowa department of corrections,
17 and employees of the commission of veterans affairs, are to be
18 considered employees of the state, whether the personnel are
19 employed on a full-time basis or render services on a part-
20 time basis on a fee schedule or other arrangement. Criminal
21 defendants while performing unpaid community service ordered
22 by the district court, board of parole, or judicial district
23 department of correctional services, or an inmate providing
24 services pursuant to a chapter 28E agreement entered into
25 pursuant to section 904.703, are to be considered employees of
26 the state.

27 "Employee of the state" also includes an individual
28 performing unpaid community service under an order of the
29 district court pursuant to section 598.23A.

30 Sec. 13. Section 692A.1, subsection 6, paragraph h, Code
31 1997, is amended to read as follows:

32 h. A criminal offense committed in another jurisdiction
33 which would constitute an indictable offense under paragraphs
34 "a" through "e" ~~and "g"~~ if committed in this state.

35 Sec. 14. Section 708.2A, subsections 6, 7, and 9, Code

1 1997, are amended to read as follows:

2 6. a. A person convicted of violating subsection 2 or 3
3 shall serve a minimum term of two days of the sentence imposed
4 by law, and shall not be eligible for suspension of the
5 minimum sentence. The minimum term shall be served on
6 consecutive days. The court shall not impose a fine in lieu
7 of the minimum sentence, although a fine may be imposed in
8 addition to the minimum sentence. This section does not
9 prohibit the court from sentencing and the defendant person
10 from serving the maximum term of confinement or from paying
11 the maximum fine permitted pursuant to chapters 902 and 903,
12 and does not prohibit the court from entering a deferred
13 judgment or sentence pursuant to section 907.3, if the
14 defendant person has not previously received a deferred
15 sentence or judgment for a violation of section 708.2 or this
16 section which was issued on a domestic abuse assault.

17 ~~However, once the defendant has received one deferred sentence~~
18 ~~or judgment involving a violation of section 708.2 or this~~
19 ~~section which was issued on a domestic abuse assault, the~~
20 ~~defendant shall not be eligible to receive another deferred~~
21 ~~sentence or judgment for a violation of this section.~~

22 b. A person convicted of violating subsection 4 shall be
23 ~~sentenced to a term of not less than one year and~~ committed to
24 the custody of the director of the department of corrections,
25 shall serve a minimum of one year of the sentence imposed, and
26 shall be assessed a fine of not less than at least seven
27 hundred fifty dollars. Notwithstanding section 901.5,
28 subsection 3, and section 907.3, subsection 3, the sentence
29 cannot be suspended; however, the person sentenced shall
30 receive credit for any time the person was confined in a jail
31 or detention facility following arrest.

32 7. If a defendant person is convicted for, receives a
33 deferred judgment for, or pleads guilty to a violation of this
34 section, the court shall modify the no-contact order issued
35 upon initial appearance in the manner provided in section

1 236.14, regardless of whether the defendant person is placed
2 on probation.

3 9. In addition to the mandatory minimum term of
4 confinement imposed by subsection 6, paragraph "a", the court
5 shall order a defendant person convicted under subsection 2 or
6 3 to participate in a batterers' treatment program as required
7 under section 708.2B. In addition, as a condition of
8 deferring judgment or sentence pursuant to section 907.3, the
9 court shall order the defendant person to participate in a
10 batterers' treatment program. The clerk of the district court
11 shall send a copy of the judgment or deferred judgment to the
12 judicial district department of correctional services.

13 Sec. 15. EFFECTIVE AND APPLICABILITY DATES. The section
14 which amends section 669.2, subsection 4, of this Act, being
15 deemed of immediate importance, takes effect upon enactment
16 and applies retroactively to July 1, 1996.

17 EXPLANATION

18 This bill contains statutory corrections which may adjust
19 language to reflect current practices, insert earlier
20 omissions, delete redundancies and inaccuracies, delete
21 temporary language, resolve inconsistencies and conflicts,
22 update ongoing provisions, or remove ambiguities.

23 Code section 74A.6(1): Adds the superintendent of credit
24 unions to the committee to establish maximum interest rates
25 for certain public obligations and assessments. This
26 parallels the change made by 1996 Acts, chapter 1021, section
27 1, for membership of the committee in Code section 12C.6 which
28 establishes minimum interest rates for certain deposits.

29 Code section 124.406(1)(a) and (2)(a): Expand the areas
30 within which a person distributing controlled substances to a
31 minor is subject to an increased penalty to include the real
32 property surrounding a public swimming pool, public park, or
33 public recreation center which comprises the pool, public
34 park, or recreation center. These changes conform to the
35 amendments to Code sections 124.401A and 124.401B in 1996

1 Acts, chapter 1164, sections 5 and 6.

2 Code sections 190.14(1), 191.9(1), 192.102, and 192.110(2):
3 Update references to the "Grade 'A' Pasteurized Milk
4 Ordinance, 1993 Revision" by changing the year to 1995 in Code
5 section 192.102 and removing the reference to the year in the
6 other sections. These amendments are included at the request
7 of the Iowa department of agriculture and land stewardship.

8 Code sections 542B.10; 542C.3(3), unnumbered paragraph 2;
9 544A.4; and 544B.6: In provisions relating to reports by the
10 engineering and land surveying examining board, the
11 accountancy examining board, the architectural examining
12 board, and the landscape architectural examining board, strike
13 requirements for the inclusion of information on receipts and
14 disbursements. These changes were requested by the
15 professional licensing and regulation division of the
16 department of commerce based on budget and reporting practices
17 which have been in use since the 1986 state government
18 reorganization. Finances for the individual boards are part
19 of the budget for the professional licensing division. The
20 governor, through the department of management, has access to
21 the financial information on a daily basis.

22 Code section 669.2(4): In the definition of "employee of
23 the state" for tort claim purposes, changes the placement of
24 the new reference to employees of the commission of veterans
25 affairs so that it does not disrupt the phrase "jurisdiction
26 of the department of human services or the Iowa department of
27 corrections". See 1996 Iowa Acts, chapter 1165, section 1.

28 Code section 692A.1(6)(h): In the definition of sexually
29 violent offenses for purposes of the sex offender registry,
30 makes the list of offenses the same whether committed in this
31 state or in another jurisdiction. Three types of offenses
32 were added by 1996 Iowa Acts, chapter 1132, section 2. These
33 were telephone dissemination of obscene materials, rental or
34 sale of hard-core pornography, and indecent exposure.
35 However, they were not added to the list of those covered if

1 committed in another jurisdiction.
2 Code section 708.2A(6), (7), and (9): In provisions
3 relating to penalties for domestic abuse assault, change the
4 term "defendant" to the word "person" to conform the language
5 of the provision internally and with other usage in Code
6 chapter 708. The mandatory minimum sentencing for third or
7 subsequent domestic abuse assault convictions language is
8 conformed with mandatory minimum sentencing language
9 applicable to other felonies under Code chapter 902.
10 Redundant language relating to issuance of deferred judgments
11 or sentences for domestic abuse assault convictions is
12 stricken. Identical language is contained in Code section
13 907.3, which pertains to imposition of deferred judgments,
14 deferred sentences, or suspended sentences.

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Vilsack, Chair
Maddox
Boettger

SSB 59

Judiciary
Succeeded By
(SF) HF 118

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MCKEAN)

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

A BILL FOR

1 An Act relating to statutory corrections which may adjust
2 language to reflect current practices, insert earlier
3 omissions, delete redundancies and inaccuracies, delete
4 temporary language, resolve inconsistencies and conflicts,
5 update ongoing provisions, or remove ambiguities, and
6 providing effective and retroactive applicability dates.

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1 Section 1. Section 74A.6, subsection 1, Code 1997, is
2 amended to read as follows:

3 1. The authority contained in this section shall be
4 exercised by a committee composed of the treasurer of state,
5 the superintendent of banking, the superintendent of credit
6 unions, and the auditor of state or a designee.

7 Sec. 2. Section 124.406, subsection 1, paragraph a, Code
8 1997, is amended to read as follows:

9 a. Unlawfully distributes or possesses with intent to
10 distribute a substance listed in schedule I or II to a person
11 under eighteen years of age commits a class "B" felony and
12 shall serve a minimum term of confinement of five years.
13 However, if the substance was distributed in or on, or within
14 one thousand feet of, the real property comprising a public or
15 private elementary or secondary school, ~~or-in-or-on-the-real~~
16 ~~property-comprising-a~~ public park, public swimming pool,
17 public recreation center, or on a marked school bus, the
18 person shall serve a minimum term of confinement of ten years.

19 Sec. 3. Section 124.406, subsection 2, paragraph a, Code
20 1997, is amended to read as follows:

21 a. Unlawfully distributes or possesses with the intent to
22 distribute a counterfeit substance listed in schedule I or II,
23 or a simulated controlled substance represented to be a
24 substance classified in schedule I or II, to a person under
25 eighteen years of age commits a class "B" felony. However, if
26 the substance was distributed in or on, or within one thousand
27 feet of, the real property comprising a public or private
28 elementary or secondary school, ~~or-in-or-on-the-real-property~~
29 ~~comprising-a~~ public park, public swimming pool, public
30 recreation center, or on a marked school bus, the person shall
31 serve a minimum term of confinement of ten years.

32 Sec. 4. Section 190.14, subsection 1, Code 1997, is
33 amended to read as follows:

34 1. The department shall administer this chapter consistent
35 with the provisions of the "Grade 'A' Pasteurized Milk

1 Ordinance~~7-1993-Revision~~", as provided in section 192.102.

2 Sec. 5. Section 191.9, subsection 1, Code 1997, is amended
3 to read as follows:

4 1. The department shall administer this chapter consistent
5 with the provisions of the "Grade 'A' Pasteurized Milk
6 Ordinance~~7-1993-Revision~~", as provided in section 192.102.

7 Sec. 6. Section 192.102, Code 1997, is amended to read as
8 follows:

9 192.102 GRADE "A" PASTEURIZED MILK ORDINANCE.

10 The department shall adopt, by rule, the "Grade 'A'
11 Pasteurized Milk Ordinance, ~~1993~~ 1995 Revision", including a
12 subsequent revision of the ordinance. If the ordinance
13 specifies that compliance with a provision of the ordinance's
14 appendices is mandatory, the department shall also adopt that
15 provision. The department shall not amend the ordinance,
16 unless the department explains each amendment and reasons for
17 the amendment in the Iowa administrative bulletin when the
18 rules are required to be published pursuant to chapter 17A.
19 The department shall administer this chapter consistent with
20 the provisions of the ordinance.

21 Sec. 7. Section 192.110, subsection 2, Code 1997, is
22 amended to read as follows:

23 2. The facilities and equipment used to produce, store, or
24 transport milk or milk products comply with requirements of
25 the "Grade 'A' Pasteurized Milk Ordinance~~7-1993-Revision~~" as
26 provided in section 192.102.

27 Sec. 8. Section 542B.10, Code 1997, is amended to read as
28 follows:

29 542B.10 ANNUAL REPORT.

30 At the time provided by law, the board shall submit to the
31 governor a written report of its transactions for the
32 preceding year, and shall file with the secretary of state a
33 copy thereof, ~~together-with-a-complete-statement-of-the~~
34 ~~receipts-and-expenditures-of-the-board~~, attested by the
35 affidavits of the chairperson and the secretary, and a

1 complete list of those licensed under this chapter with their
2 addresses and the dates of their certificates of licensure.
3 Said report shall be printed by the state and a copy mailed
4 to, and placed on file in the office of the clerk of each
5 incorporated city in the state and in the office of the
6 auditor of each county therein.

7 Sec. 9. Section 542C.3, subsection 3, unnumbered paragraph
8 2, Code 1997, is amended to read as follows:

9 The board shall make a biennial report to the governor of
10 its proceedings, with ~~an-account-of-all-moneys-received-and~~
11 ~~disbursed~~, a list of the names of certified public accountants
12 and accounting practitioners whose certificates, permits to
13 practice, or licenses have been revoked or suspended, and
14 other information as it deems proper or the governor requests.

15 Sec. 10. Section 544A.4, Code 1997, is amended to read as
16 follows:

17 544A.4 REPORT.

18 On or before the thirtieth day of June of each year the
19 board shall submit to the governor a report of its
20 transactions for the preceding year, ~~together-with-a-complete~~
21 ~~statement-of-the-receipts-and-expenditures-of-the-board~~. This
22 report shall include a roster of the name, place of business
23 and number of certificate of registration of every registered
24 architect entitled to practice the profession in the state of
25 Iowa. A copy of this report shall be filed with the secretary
26 of state.

27 Sec. 11. Section 544B.6, Code 1997, is amended to read as
28 follows:

29 544B.6 ANNUAL REPORT.

30 Before the first day of July of each year the board shall
31 submit to the governor a report of its transactions for the
32 preceding year, ~~together-with-a-complete-statement-of-the~~
33 ~~receipts-and-expenditures-of-the-board~~. This report shall
34 include the roster of registered landscape architects. A copy
35 of this report shall be filed with the secretary of state.

1 Sec. 12. Section 669.2, subsection 4, Code 1997, is
2 amended to read as follows:

3 4. "Employee of the state" includes any one or more
4 officers, agents, or employees of the state or any state
5 agency, including members of the general assembly, and persons
6 acting on behalf of the state or any state agency in any
7 official capacity, temporarily or permanently in the service
8 of the state of Iowa, whether with or without compensation,
9 but does not include a contractor doing business with the
10 state. Professional personnel, including physicians,
11 osteopathic physicians and surgeons, osteopathic physicians,
12 optometrists, dentists, nurses, physician assistants, and
13 other medical personnel, who render services to patients or
14 inmates of state institutions under the jurisdiction of the
15 department of human services, ~~and employees of the commission~~
16 ~~of veterans affairs,~~ or the Iowa department of corrections,
17 and employees of the commission of veterans affairs, are to be
18 considered employees of the state, whether the personnel are
19 employed on a full-time basis or render services on a part-
20 time basis on a fee schedule or other arrangement. Criminal
21 defendants while performing unpaid community service ordered
22 by the district court, board of parole, or judicial district
23 department of correctional services, or an inmate providing
24 services pursuant to a chapter 28E agreement entered into
25 pursuant to section 904.703, are to be considered employees of
26 the state.

27 "Employee of the state" also includes an individual
28 performing unpaid community service under an order of the
29 district court pursuant to section 598.23A.

30 Sec. 13. Section 692A.1, subsection 6, paragraph h, Code
31 1997, is amended to read as follows:

32 h. A criminal offense committed in another jurisdiction
33 which would constitute an indictable offense under paragraphs
34 "a" through "e" ~~and~~ "g" if committed in this state.

35 Sec. 14. Section 708.2A, subsections 6, 7, and 9, Code

1 1997, are amended to read as follows:

2 6. a. A person convicted of violating subsection 2 or 3
3 shall serve a minimum term of two days of the sentence imposed
4 by law, and shall not be eligible for suspension of the
5 minimum sentence. The minimum term shall be served on
6 consecutive days. The court shall not impose a fine in lieu
7 of the minimum sentence, although a fine may be imposed in
8 addition to the minimum sentence. This section does not
9 prohibit the court from sentencing and the defendant person
10 from serving the maximum term of confinement or from paying
11 the maximum fine permitted pursuant to chapters 902 and 903,
12 and does not prohibit the court from entering a deferred
13 judgment or sentence pursuant to section 907.3, if the
14 defendant person has not previously received a deferred
15 sentence or judgment for a violation of section 708.2 or this
16 section which was issued on a domestic abuse assault.

17 ~~However, once the defendant has received one deferred sentence~~
18 ~~or judgment involving a violation of section 708.2 or this~~
19 ~~section which was issued on a domestic abuse assault, the~~
20 ~~defendant shall not be eligible to receive another deferred~~
21 ~~sentence or judgment for a violation of this section.~~

22 b. A person convicted of violating subsection 4 shall be
23 ~~sentenced to a term of not less than one year and~~ committed to
24 the custody of the director of the department of corrections,
25 shall serve a minimum of one year of the sentence imposed, and
26 shall be assessed a fine of not less than at least seven
27 hundred fifty dollars. Notwithstanding section 901.5,
28 subsection 3, and section 907.3, subsection 3, the sentence
29 cannot be suspended; however, the person sentenced shall
30 receive credit for any time the person was confined in a jail
31 or detention facility following arrest.

32 7. If a defendant person is convicted for, receives a
33 deferred judgment for, or pleads guilty to a violation of this
34 section, the court shall modify the no-contact order issued
35 upon initial appearance in the manner provided in section

1 236.14, regardless of whether the defendant person is placed
2 on probation.

3 9. In addition to the mandatory minimum term of
4 confinement imposed by subsection 6, paragraph "a", the court
5 shall order a defendant person convicted under subsection 2 or
6 3 to participate in a batterers' treatment program as required
7 under section 708.2B. In addition, as a condition of
8 deferring judgment or sentence pursuant to section 907.3, the
9 court shall order the defendant person to participate in a
10 batterers' treatment program. The clerk of the district court
11 shall send a copy of the judgment or deferred judgment to the
12 judicial district department of correctional services.

13 Sec. 15. EFFECTIVE AND APPLICABILITY DATES. The section
14 which amends section 669.2, subsection 4, of this Act, being
15 deemed of immediate importance, takes effect upon enactment
16 and applies retroactively to July 1, 1996.

17 EXPLANATION

18 This bill contains statutory corrections which may adjust
19 language to reflect current practices, insert earlier
20 omissions, delete redundancies and inaccuracies, delete
21 temporary language, resolve inconsistencies and conflicts,
22 update ongoing provisions, or remove ambiguities.

23 Code section 74A.6(1): Adds the superintendent of credit
24 unions to the committee to establish maximum interest rates
25 for certain public obligations and assessments. This
26 parallels the change made by 1996 Acts, chapter 1021, section
27 1, for membership of the committee in Code section 12C.6 which
28 establishes minimum interest rates for certain deposits.

29 Code section 124.406(1)(a) and (2)(a): Expand the areas
30 within which a person distributing controlled substances to a
31 minor is subject to an increased penalty to include the real
32 property surrounding a public swimming pool, public park, or
33 public recreation center which comprises the pool, public
34 park, or recreation center. These changes conform to the
35 amendments to Code sections 124.401A and 124.401B in 1996

1 Acts, chapter 1164, sections 5 and 6.

2 Code sections 190.14(1), 191.9(1), 192.102, and 192.110(2):
3 Update references to the "Grade 'A' Pasteurized Milk
4 Ordinance, 1993 Revision" by changing the year to 1995 in Code
5 section 192.102 and removing the reference to the year in the
6 other sections. These amendments are included at the request
7 of the Iowa department of agriculture and land stewardship.

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9 544A.4; and 544B.6: In provisions relating to reports by the
10 engineering and land surveying examining board, the
11 accountancy examining board, the architectural examining
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13 requirements for the inclusion of information on receipts and
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15 professional licensing and regulation division of the
16 department of commerce based on budget and reporting practices
17 which have been in use since the 1986 state government
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19 of the budget for the professional licensing division. The
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24 the new reference to employees of the commission of veterans
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3 relating to penalties for domestic abuse assault, change the
4 term "defendant" to the word "person" to conform the language
5 of the provision internally and with other usage in Code
6 chapter 708. The mandatory minimum sentencing for third or
7 subsequent domestic abuse assault convictions language is
8 conformed with mandatory minimum sentencing language
9 applicable to other felonies under Code chapter 902.

10 Redundant language relating to issuance of deferred judgments
11 or sentences for domestic abuse assault convictions is
12 stricken. Identical language is contained in Code section
13 907.3, which pertains to imposition of deferred judgments,
14 deferred sentences, or suspended sentences.

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SENATE FILE 118

AN ACT

RELATING TO STATUTORY CORRECTIONS WHICH MAY ADJUST LANGUAGE TO REFLECT CURRENT PRACTICES, INSERT EARLIER OMISSIONS, DELETE REDUNDANCIES AND INACCURACIES, DELETE TEMPORARY LANGUAGE, RESOLVE INCONSISTENCIES AND CONFLICTS, UPDATE ONGOING PROVISIONS, OR REMOVE AMBIGUITIES, AND PROVIDING EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

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

Section 1. Section 74A.6, subsection 1, Code 1997, is amended to read as follows:

1. The authority contained in this section shall be exercised by a committee composed of the treasurer of state, the superintendent of banking, the superintendent of credit unions, and the auditor of state or a designee.

Sec. 2. Section 124.406, subsection 1, paragraph a, Code 1997, is amended to read as follows:

a. Unlawfully distributes or possesses with intent to distribute a substance listed in schedule I or II to a person under eighteen years of age commits a class "B" felony and shall serve a minimum term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, ~~or-in-or-on-the-real~~

~~property-comprising-a~~ public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

Sec. 3. Section 124.406, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. Unlawfully distributes or possesses with the intent to distribute a counterfeit substance listed in schedule I or II, or a simulated controlled substance represented to be a substance classified in schedule I or II, to a person under eighteen years of age commits a class "B" felony. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, ~~or-in-or-on-the-real-property comprising-a~~ public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

Sec. 4. Section 190.14, subsection 1, Code 1997, is amended to read as follows:

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance-1993-Revision", as provided in section 192.102.

Sec. 5. Section 191.9, subsection 1, Code 1997, is amended to read as follows:

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance-1993-Revision", as provided in section 192.102.

Sec. 6. Section 192.102, Code 1997, is amended to read as follows:

192.102 GRADE "A" PASTEURIZED MILK ORDINANCE.

The department shall adopt, by rule, the "Grade 'A' Pasteurized Milk Ordinance, 1993 1995 Revision", including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance,

unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 7. Section 192.110, subsection 2, Code 1997, is amended to read as follows:

2. The facilities and equipment used to produce, store, or transport milk or milk products comply with requirements of the "Grade 'A' Pasteurized Milk Ordinance, 1993-Revision" as provided in section 192.102.

Sec. 8. Section 542B.10, Code 1997, is amended to read as follows:

542B.10 ANNUAL REPORT.

At the time provided by law, the board shall submit to the governor a written report of its transactions for the preceding year, and shall file with the secretary of state a copy thereof, ~~together with a complete statement of the receipts and expenditures of the board,~~ attested by the affidavits of the chairperson and the secretary, and a complete list of those licensed under this chapter with their addresses and the dates of their certificates of licensure. Said report shall be printed by the state and a copy mailed to, and placed on file in the office of the clerk of each incorporated city in the state and in the office of the auditor of each county therein.

Sec. 9. Section 542C.3, subsection 3, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The board shall make a biennial report to the governor of its proceedings, with ~~an account of all moneys received and disbursed,~~ a list of the names of certified public accountants and accounting practitioners whose certificates, permits to practice, or licenses have been revoked or suspended, and other information as it deems proper or the governor requests.

Sec. 10. Section 544A.4, Code 1997, is amended to read as follows:

544A.4 REPORT.

On or before the thirtieth day of June of each year the board shall submit to the governor a report of its transactions for the preceding year, ~~together with a complete statement of the receipts and expenditures of the board.~~ This report shall include a roster of the name, place of business and number of certificate of registration of every registered architect entitled to practice the profession in the state of Iowa. A copy of this report shall be filed with the secretary of state.

Sec. 11. Section 544B.6, Code 1997, is amended to read as follows:

544B.6 ANNUAL REPORT.

Before the first day of July of each year the board shall submit to the governor a report of its transactions for the preceding year, ~~together with a complete statement of the receipts and expenditures of the board.~~ This report shall include the roster of registered landscape architects. A copy of this report shall be filed with the secretary of state.

Sec. 12. Section 669.2, subsection 4, Code 1997, is amended to read as follows:

4. "Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation, but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, dentists, nurses, physician assistants, and other medical personnel, who render services to patients or inmates of state institutions under the jurisdiction of the

~~department of human services, and employees of the commission of veterans affairs,~~ or the Iowa department of corrections, and employees of the commission of veterans affairs, are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, are to be considered employees of the state.

"Employee of the state" also includes an individual performing unpaid community service under an order of the district court pursuant to section 598.23A.

Sec. 13. Section 692A.1, subsection 6, paragraph h, Code 1997, is amended to read as follows:

h. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "e" and "g" if committed in this state.

Sec. 14. Section 708.2A, subsections 6, 7, and 9, Code 1997, are amended to read as follows:

6. a. A person convicted of violating subsection 2 or 3 shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the defendant person from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the defendant person has not previously received a deferred

sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault. ~~However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or this section which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.~~

b. A person convicted of violating subsection 4 shall be sentenced to a term of not less than one year and committed to the custody of the director of the department of corrections, shall serve a minimum of one year of the sentence imposed, and shall be assessed a fine of not less than at least seven hundred fifty dollars. Notwithstanding section 901.5, subsection 3, and section 907.3, subsection 3, the sentence cannot be suspended; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

7. If a defendant person is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the defendant person is placed on probation.

9. In addition to the mandatory minimum term of confinement imposed by subsection 6, paragraph "a", the court shall order a defendant person convicted under subsection 2 or 3 to participate in a batterers' treatment program as required under section 708.2B. In addition, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the defendant person to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 15. EFFECTIVE AND APPLICABILITY DATES. The section which amends section 669.2, subsection 4, of this Act, being

deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1996.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 118, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 18, 1997

TERRY E. BRANSTAD
Governor