

House Study Bill 174

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

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

A BILL FOR

1 An Act relating to the department of public safety practices and
2 procedures, and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1263XD 82
5 jm/gg/14

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1 1 Section 1. Section 80.9, subsection 1, unnumbered
1 2 paragraph 1, Code 2007, is amended to read as follows:
1 3 ~~They~~ A peace officer shall not exercise ~~their~~ the general
1 4 powers of a peace officer within the limits of any city,
1 5 except:
1 6 Sec. 2. Section 80.9, subsection 2, unnumbered paragraph
1 7 1, Code 2007, is amended to read as follows:
1 8 In more particular, ~~their~~ the duties of a peace officer
1 9 shall be as follows:
1 10 Sec. 3. Section 80.9, subsection 3, Code 2007, is amended
1 11 to read as follows:
1 12 3. ~~They~~ A peace officer may administer oaths, acknowledge
1 13 signatures, and take voluntary testimony pursuant to their
1 14 duties as provided by law.
1 15 Sec. 4. Section 81.2, subsection 6, Code 2007, is amended
1 16 to read as follows:
1 17 6. A person required to register as a sex offender shall
1 18 submit a DNA sample for DNA profiling pursuant to section
1 19 81.4.
1 20 Sec. 5. Section 692.2, subsection 1, paragraph b,
1 21 subparagraph (4), Code 2007, is amended by striking the
1 22 subparagraph.
1 23 Sec. 6. Section 692.2, Code 2007, is amended by adding the
1 24 following new subsection:
1 25 NEW SUBSECTION. 1A. The department may provide copies or
1 26 communicate information as provided in this subsection
1 27 regarding deferred judgment information upon receipt of
1 28 official notification of the successful completion of
1 29 probation following a deferred judgment. Deferred judgment
1 30 information regarding a person who successfully completed
1 31 probation shall only be disseminated by the department to a
1 32 criminal or juvenile justice agency, to the person who is the
1 33 subject of the deferred judgment information or the person's
1 34 attorney, or to another person with a signed release from the
1 35 person who is the subject of the deferred judgment information
2 1 authorizing the requesting person access to the criminal
2 2 history data, or for any other purpose required by law.
2 3 Deferred judgment information shall be retained by the
2 4 department for the purpose of complying with this subsection
2 5 and for any other purpose required by law.
2 6 Sec. 7. NEW SECTION. 692.3 REDISSEMINATION OF ARREST
2 7 DATA AND OTHER INFORMATION.
2 8 A criminal or juvenile justice agency may disseminate
2 9 arrest data, and the name, photograph, physical description,
2 10 and other identifying information concerning a person who is
2 11 wanted or being sought if a warrant for the arrest of that
2 12 person has been issued. Information relating to any threat
2 13 the person may pose to the public may also be disseminated.
2 14 The information may be disseminated through any written,
2 15 audio, or visual means utilized by a criminal or juvenile
2 16 justice agency. Any dissemination of information pursuant
2 17 to this section shall also include the statement provided in
2 18 section 692.2, subsection 1, paragraph "b", subparagraph (5).
2 19 Sec. 8. Section 692.6, Code 2007, is amended to read as

2 20 follows:

2 21 692.6 CIVIL REMEDY.

2 22 Any person may institute a civil action for damages under
2 23 chapter 669 or 670 or to restrain the dissemination of the
2 24 person's criminal history data or intelligence data in
2 25 violation of this chapter, ~~and any person, agency or~~
~~2 26 governmental body proven to have disseminated or to have~~
~~2 27 requested and received criminal history data or intelligence~~
~~2 28 data in violation of this chapter shall be liable for actual~~
~~2 29 damages and exemplary damages for each violation and shall be~~
~~2 30 liable for court costs, expenses and reasonable attorneys'~~
~~2 31 fees incurred by the party bringing the action. In no case~~
~~2 32 shall the award for damages be less than one hundred dollars.~~

2 33 Sec. 9. Section 692.15, subsection 3, Code 2007, is
2 34 amended to read as follows:

2 35 3. The law enforcement agency making an arrest and
3 1 securing fingerprints pursuant to section 690.2 or taking a
3 2 juvenile into custody and securing fingerprints pursuant to
3 3 section 232.148 shall fill out a final disposition report on
3 4 each arrest or taking into custody on a form and in the manner
3 5 prescribed by the commissioner of public safety. The final
3 6 disposition report shall be forwarded to the county attorney,
3 7 or at the discretion of the county attorney, to the clerk of
~~3 8 the district court,~~ in the county where the arrest or taking
3 9 into custody occurred, or to the juvenile court officer who
3 10 received the referral, whichever is deemed appropriate under
~~3 11 the circumstances.~~

3 12 Sec. 10. Section 692.16, Code 2007, is amended to read as
3 13 follows:

3 14 692.16 REVIEW AND REMOVAL.

3 15 At least every year the division shall review and determine
3 16 current status of all Iowa arrests or takings into custody
3 17 reported, which are at least ~~one year~~ four years old with no
3 18 disposition data. Any Iowa arrest or taking of a juvenile
3 19 into custody recorded within a computer data storage system
3 20 which has no disposition data after four years shall be
3 21 removed unless there is an outstanding arrest warrant or
3 22 detainer on such charge.

3 23 Sec. 11. Section 725.9, subsection 2, Code 2007, is
3 24 amended by striking the subsection.

3 25 Sec. 12. Section 725.9, subsection 3, Code 2007, is
3 26 amended to read as follows:

3 27 3. "Gambling device" means a device used or adapted or
3 28 designed to be used for gambling and includes, but is not
3 29 limited to, roulette wheels, klondike tables, punchboards,
3 30 faro layouts, keno layouts, numbers tickets, slot machines,
3 31 pachislo skill=stop machine or any other similar machine or
~~3 32 device,~~ pinball machines, push cards, jar tickets and
3 33 pull=tabs. However, "gambling device" does not include an
3 34 antique slot machine, ~~antique pinball machine,~~ or any device
3 35 regularly manufactured and offered for sale and sold as a toy,
4 1 except that any use of such a toy, or antique slot machine ~~or~~
~~4 2 antique pinball machine~~ for gambling purposes constitutes
4 3 unlawful gambling.

4 4 Sec. 13. Section 809A.3, subsection 4, Code 2007, is
4 5 amended to read as follows:

4 6 4. Notwithstanding subsections 1 through 3, violations of
4 7 chapter 321 or 321J shall not be considered conduct giving
4 8 rise to forfeiture, except for violations of the following:

4 9 a. Section 321.232.

4 10 ~~a.~~ b. A second or subsequent violation of section
4 11 321J.4B, subsection 2, paragraph "b".

4 12 ~~b.~~ c. Section 321J.4B, subsection 9.

4 13 Sec. 14. Section 907.4, Code 2007, is amended to read as
4 14 follows:

4 15 907.4 DEFERRED JUDGMENT DOCKET.

4 16 1. A deferment of judgment under section 907.3 shall be
4 17 entered promptly by the clerk of the district court, or the
4 18 clerk's designee, into the deferred judgment database of the
4 19 state, which shall serve as the deferred judgment docket. The
4 20 docket shall contain a permanent record of the deferred
4 21 judgment including the name and date of birth of the
4 22 defendant, the district court docket number, the nature of the
4 23 offense, and the date of the deferred judgment. Before
4 24 granting deferred judgment in any case, the court shall search
4 25 the deferred judgment docket and shall consider any prior
4 26 record of a deferred judgment against the defendant. The
4 27 permanent record provided for in this section is a
4 28 confidential record exempted from public access under section
4 29 22.7 and shall be available only to justices of the supreme
4 30 court, judges of the court of appeals, district judges,

4 31 district associate judges, judicial magistrates, clerks of the
4 32 district court, judicial district departments of correctional
4 33 services, county attorneys, and the department of corrections
4 34 requesting information pursuant to this section, or the
4 35 designee of a justice, judge, magistrate, clerk, judicial
5 1 district department of correctional services, or county
5 2 attorney, or department.

5 3 2. Notwithstanding subsection 1, deferred judgment
5 4 information may be disclosed by the department of public
5 5 safety as provided in section 692.2.

5 6 Sec. 15. EFFECTIVE DATE. This Act, being deemed of
5 7 immediate importance, takes effect upon enactment.

5 8 EXPLANATION

5 9 This bill relates to department of public safety practices
5 10 and procedures.

5 11 The amendments to Code section 80.9 enhance the readability
5 12 of the Code section.

5 13 The amendment to Code section 81.2 specifies that a person
5 14 required to register as a sex offender shall submit a DNA
5 15 sample for DNA profiling.

5 16 The amendment to Code section 692.2 specifies that the
5 17 department of public safety may disseminate deferred judgment
5 18 information, after successful completion of probation, to the
5 19 following agencies or persons: a criminal or juvenile justice
5 20 agency; the person who is the subject of the deferred judgment
5 21 information or the person's attorney; or another person with a
5 22 signed release from the person who is the subject of the
5 23 deferred judgment information authorizing the requesting
5 24 person access to the criminal history data; or for any other
5 25 purpose required by law.

5 26 New Code section 692.3 provides that a criminal or juvenile
5 27 justice agency may redisseminate department of public safety
5 28 arrest data, and the name, photograph, physical description,
5 29 and other identifying information concerning a person who is
5 30 wanted or being sought if a warrant for the arrest of that
5 31 person has been issued. Information relating to any threat
5 32 the person may pose to the public may also be redisseminated
5 33 under the bill.

5 34 The amendment to Code section 692.6 eliminates specific
5 35 statutory damages that may be awarded to a person who brings a
6 1 civil suit under Code chapter 669 (state tort claims), or Code
6 2 chapter 670 (tort liability of governmental subdivisions), or
6 3 to restrain the dissemination of the person's criminal history
6 4 data or intelligence data in violation of Code chapter 692.

6 5 The amendment to Code section 692.15 grants the county
6 6 attorney discretion to decide whether the final disposition
6 7 report of an arrest made in the county is forwarded to the
6 8 county attorney, or to the clerk of the district court in the
6 9 county where the arrest was made, or to a juvenile court
6 10 officer who received the referral, whichever is deemed
6 11 appropriate under the circumstances. Under current law the
6 12 final disposition report shall be forwarded by the law
6 13 enforcement agency making the arrest to the county attorney in
6 14 the county of arrest or to the juvenile court officer who
6 15 received the referral.

6 16 The amendment to Code section 692.16 provides that the
6 17 department of public safety shall annually review all arrests
6 18 or takings into custody which are at least four years old with
6 19 no disposition data. Current law provides the department
6 20 shall annually review all arrests or takings into custody
6 21 which are at least one year old with no disposition data.

6 22 The amendment to Code section 725.9 strikes the definition
6 23 of "antique pinball machine" and defines a pachislo skill-stop
6 24 machine as a "gambling device". The definition of "gambling
6 25 device" in Code section 725.9 also applies to Code chapter 99A
6 26 (possession of gambling device) and 99B (games of skill or
6 27 chance).

6 28 The amendment to Code section 809A.3 provides that a person
6 29 who violates Code section 321.232 (radar jamming devices) may
6 30 be subject to a forfeiture action. Current law prohibits a
6 31 forfeiture action for violations of Code chapter 321 (motor
6 32 vehicles and laws of the road).

6 33 The amendment to Code section 907.4 permits the department
6 34 of public safety to disclose confidential deferred judgment
6 35 information pursuant to Code section 692.2 as amended by the
7 1 bill.

7 2 The bill takes effect upon enactment.

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