

**House File 2433 - Introduced**

HOUSE FILE 2433  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO HF 2257)

**A BILL FOR**

- 1 An Act relating to state agency decision making.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 9A.105, subsection 1, paragraph h, Code  
2 2011, is amended to read as follows:

3 h. Whether the applicant or any person named pursuant to  
4 paragraph "g" has been convicted of a ~~crime~~ felony that, if  
5 committed in this state, would be a crime involving moral  
6 turpitude ~~or which is a felony~~, and identify the ~~crime~~ felony.

7 Sec. 2. Section 9A.106, subsection 2, paragraph a, Code  
8 2011, is amended to read as follows:

9 a. Been convicted of a ~~crime~~ felony that, if committed in  
10 this state, would be a crime involving moral turpitude ~~or a~~  
11 felony.

12 Sec. 3. Section 17A.3, subsection 1, paragraph a, Code 2011,  
13 is amended to read as follows:

14 a. (1) Adopt as a rule a description of the organization of  
15 the agency which states the general course and method of its  
16 operations, the administrative subdivisions of the agency and  
17 the programs implemented by each of them, a statement of the  
18 mission of the agency, and the methods by which and location  
19 where the public may obtain information or make submissions or  
20 requests.

21 (2) Each board, commission, or other multimember agency  
22 shall follow Robert's rules of order, eleventh edition, in  
23 governing the conduct of agency meetings.

24 Sec. 4. Section 17A.4, subsection 3, Code 2011, is amended  
25 to read as follows:

26 3. a. ~~When an agency for good cause finds that notice~~  
27 ~~and public participation would be unnecessary, impracticable,~~  
28 ~~or contrary to the public interest~~ When the statute so  
29 provides, or with the approval of the administrative rules  
30 review committee, the provisions of subsection 1 shall be  
31 inapplicable. The agency shall incorporate in each rule issued  
32 in reliance upon this provision either the finding and a brief  
33 statement of the reasons for the finding, or a statement that  
34 the rule is within a very narrowly tailored category of rules  
35 whose issuance has previously been exempted from subsection 1

1 ~~by a special rule relying on this provision and including such~~  
2 ~~a finding and statement of reasons for the entire category.~~

3 b. (1) If the administrative rules review committee by  
4 a two-thirds vote, the governor, or the attorney general  
5 files with the administrative code editor an objection to the  
6 adoption of any a rule or portion of a rule pursuant to this  
7 subsection, ~~that~~ the rule or portion of the rule shall cease  
8 to be effective one hundred eighty days after the date the  
9 objection was filed. A

10 (2) If the administrative rules review committee files with  
11 the administrative code editor an objection to the adoption of  
12 a rule or portion of a rule pursuant to this subsection, the  
13 administrative rules review committee, by a separate two-thirds  
14 vote, may suspend the applicability of the rule or portion  
15 of the rule until the rule ceases to be effective under this  
16 paragraph "b". The determination to suspend the applicability  
17 of the rule or portion of the rule shall be included in the copy  
18 of the objection to be forwarded to the agency.

19 c. If an objection to a rule is filed under this subsection,  
20 a copy of the objection, properly dated, shall be forwarded to  
21 the agency at the time of filing the objection. In any action  
22 contesting a rule or portion of a rule adopted pursuant to  
23 this subsection, the burden of proof shall be on the agency to  
24 show that the procedures of subsection 1 were impracticable,  
25 unnecessary, or contrary to the public interest and that, if a  
26 category of rules was involved, the category was very narrowly  
27 tailored.

28 Sec. 5. Section 17A.4, subsection 7, Code 2011, is amended  
29 to read as follows:

30 7. a. Upon the vote of two-thirds of its members the  
31 administrative rules review committee may delay the effective  
32 date of a rule or portion of a rule seventy days beyond that  
33 permitted in section 17A.5, unless the rule was promulgated  
34 under section 17A.5, subsection 2, paragraph "b". ~~This~~  
35 ~~provision shall be utilized by the committee only if further~~

1 ~~time is necessary to study and examine the rule. If the~~  
2 rule was promulgated under section 17A.5, subsection 2,  
3 paragraph "b", the administrative rules review committee,  
4 within thirty-five days of the effective date of the rule and  
5 upon the vote of two-thirds of its members, may suspend the  
6 applicability of the rule or portion of the rule for seventy  
7 days.

8 b. Notice of an effective date that was delayed under this  
9 provision shall be published in the Iowa administrative code  
10 and bulletin.

11 Sec. 6. Section 17A.4, Code 2011, is amended by adding the  
12 following new subsection:

13 NEW SUBSECTION. 9. Upon the vote of two-thirds of its  
14 members, the administrative rules review committee, following  
15 notice of intended action as provided in subsection 1 and prior  
16 to adoption of a rule pursuant to that notice, may suspend  
17 further action relating to that notice for seventy days.  
18 Notice of a notice of intended action that was suspended under  
19 this provision shall be published in the Iowa administrative  
20 code and bulletin.

21 Sec. 7. Section 17A.8, subsection 4, Code 2011, is amended  
22 to read as follows:

23 4. a. The committee shall ~~choose a chairperson from its~~  
24 ~~membership and~~ prescribe its rules of procedure. The committee  
25 may employ a secretary or may appoint the administrative code  
26 editor or a designee to act as secretary.

27 b. The chairperson of the committee shall be chosen as  
28 provided in this paragraph. For the term commencing with the  
29 convening of the first regular session of each general assembly  
30 and ending upon the convening of the second regular session  
31 of that general assembly, the chairperson shall be chosen by  
32 the committee from its members who are members of the house of  
33 representatives. For the term commencing with the convening  
34 of the second regular session of each general assembly and  
35 ending upon the convening of the first regular session of the

1 next general assembly, the chairperson shall be chosen by the  
2 committee from its members who are members of the senate. A  
3 vacancy shall be filled in the same manner as the original  
4 appointment and shall be for the remainder of the unexpired  
5 term of the vacancy.

6 Sec. 8. Section 17A.8, subsection 9, Code 2011, is amended  
7 to read as follows:

8 9. a. Upon a vote of two-thirds of its members, the  
9 administrative rules review committee may delay the effective  
10 date of a rule or portion of a rule until the adjournment  
11 of the next regular session of the general assembly, unless  
12 the rule was promulgated under section 17A.5, subsection 2,  
13 paragraph "b". If the rule was promulgated under section  
14 17A.5, subsection 2, paragraph "b", the administrative rules  
15 review committee, within thirty-five days of the effective date  
16 of the rule and upon the vote of two-thirds of its members,  
17 may suspend the applicability of the rule or portion of the  
18 rule until the adjournment of the next regular session of the  
19 general assembly.

20 b. The committee shall refer a rule or portion of a rule  
21 whose effective date has been delayed or applicability has  
22 been suspended to the speaker of the house of representatives  
23 and the president of the senate who shall refer the delayed  
24 or suspended rule or portion of the rule to the appropriate  
25 standing committees of the general assembly. A standing  
26 committee shall review a the rule within twenty-one days  
27 after the rule is referred to the committee by the speaker  
28 of the house of representatives or the president of the  
29 senate and shall take formal committee action by sponsoring  
30 a joint resolution to disapprove the rule, by proposing  
31 legislation relating to the rule, or by refusing to propose  
32 a joint resolution or legislation concerning the rule. The  
33 standing committee shall inform the administrative rules review  
34 committee of the committee action taken concerning the rule.  
35 If the general assembly has not disapproved of the rule by a

1 joint resolution, the rule shall become effective. The speaker  
2 of the house of representatives and the president of the senate  
3 shall notify the administrative code editor of the final  
4 disposition of each rule or portion of a rule whose effective  
5 date has been delayed or whose applicability has been suspended  
6 pursuant to this subsection. If a the rule is disapproved, ~~it~~  
7 the rule shall not ~~become~~ be effective and the agency shall  
8 rescind the rule. ~~This section shall not apply to rules made~~  
9 ~~effective under section 17A.5, subsection 2, paragraph "b".~~

10 Sec. 9. Section 80A.4, subsection 1, paragraph g, Code 2011,  
11 is amended to read as follows:

12 *g.* Has not been convicted of a ~~crime described in section~~  
13 ~~708.3, 708.4, 708.5, 708.6, 708.8, or 708.9~~ felony.

14 Sec. 10. Section 99G.24, subsection 7, paragraph a, Code  
15 2011, is amended to read as follows:

16 *a.* Has been convicted of a ~~criminal offense~~ an aggravated  
17 misdemeanor or felony related to the security or integrity of  
18 the lottery in this or any other jurisdiction.

19 Sec. 11. Section 135C.33, subsection 1, paragraph a, Code  
20 2011, is amended to read as follows:

21 *a.* For the purposes of this section, ~~the term "crime" does~~  
22 ~~not include offenses under chapter 321 classified as a simple~~  
23 ~~misdemeanor or equivalent simple misdemeanor offenses from~~  
24 ~~another jurisdiction~~ means an aggravated misdemeanor or felony.

25 Sec. 12. Section 147.55, subsection 5, Code 2011, is amended  
26 to read as follows:

27 5. Conviction of a ~~crime~~ an aggravated misdemeanor or felony  
28 related to the profession or occupation of the licensee or the  
29 conviction of ~~any crime~~ an aggravated misdemeanor or felony  
30 that would directly affect the licensee's ability to practice  
31 within a profession. A copy of the record of conviction ~~or~~  
32 ~~plea of guilty~~ shall be conclusive evidence of the conviction.

33 Sec. 13. Section 148.6, subsection 2, paragraph b, Code  
34 2011, is amended to read as follows:

35 *b.* Being convicted of a felony in the courts of this state

1 or another state, territory, or country. Conviction as used in  
2 this paragraph shall include a conviction of an offense which  
3 if committed in this state would be deemed a felony without  
4 regard to its designation elsewhere, ~~or a criminal proceeding~~  
5 ~~in which a finding or verdict of guilt is made or returned, but~~  
6 ~~the adjudication of guilt is either withheld or not entered.~~  
7 A certified copy of the final order or judgment of conviction  
8 ~~or plea of guilty~~ in this state or in another state shall be  
9 conclusive evidence of the conviction.

10 Sec. 14. Section 153.34, subsection 9, Code 2011, is amended  
11 to read as follows:

12 9. For the conviction of a felony in the courts of this  
13 state or another state, territory, or country. Conviction as  
14 used in this subsection includes a conviction of an offense  
15 which if committed in this state would be a felony without  
16 regard to its designation elsewhere, ~~and includes a finding or~~  
17 ~~verdict of guilt made or returned in a criminal proceeding even~~  
18 ~~if the adjudication of guilt is withheld or not entered.~~ A  
19 certified copy of the final order or judgment of conviction ~~or~~  
20 ~~plea of guilty~~ in this state or in another state constitutes  
21 conclusive evidence of the conviction.

22 Sec. 15. Section 156.9, subsection 2, paragraph e, Code  
23 2011, is amended to read as follows:

24 e. Conviction of ~~any crime~~ an aggravated misdemeanor  
25 or felony related to the practice of mortuary science or  
26 implicating the licensee's competence to safely perform  
27 mortuary science services, including but not limited to a  
28 ~~crime~~ an aggravated misdemeanor or felony involving moral  
29 character, dishonesty, fraud, theft, embezzlement, extortion,  
30 or controlled substances, in a court of competent jurisdiction  
31 in this state, or in another state, territory, or district of  
32 the United States, or in a foreign jurisdiction. ~~For purposes~~  
33 ~~of this paragraph, "conviction" includes a guilty plea, deferred~~  
34 ~~judgment, or other finding of guilt.~~ A certified copy of the  
35 judgment is ~~prima facie~~ conclusive evidence of the conviction.

1     Sec. 16. Section 169.13, subsection 1, paragraph b, Code  
2 2011, is amended to read as follows:

3     *b.* Being convicted of a felony in the courts of this state  
4 or another state, territory, or country. Conviction as used  
5 in this paragraph includes a conviction of an offense which  
6 if committed in this state would be deemed a felony without  
7 regard to its designation elsewhere, ~~or a criminal proceeding~~  
8 ~~in which a finding or verdict of guilt is made or returned, but~~  
9 ~~the adjudication or guilt is either withheld or not entered.~~ A  
10 certified copy of the final order or judgment of conviction ~~or~~  
11 ~~plea of guilty~~ in this state or in another state is conclusive  
12 evidence of the conviction.

13     Sec. 17. Section 272C.1, subsection 6, Code 2011, is amended  
14 by adding the following new paragraph:

15     NEW PARAGRAPH. *ag.* The state racing and gaming commission  
16 created pursuant to section 99D.5.

17     Sec. 18. Section 272C.3, Code 2011, is amended by adding the  
18 following new subsection:

19     NEW SUBSECTION. 5. Notwithstanding any other provision  
20 of law to the contrary, a licensing board shall not treat a  
21 deferred judgment or a final order resulting in a deferred  
22 judgment, as deferred judgment is defined in section 907.1,  
23 as a conviction in determining whether there are grounds for  
24 licensee discipline or license denial, unless the deferred  
25 judgment is withdrawn and judgment is entered as provided in  
26 section 907.3, subsection 1.

27     Sec. 19. Section 523A.503, subsection 1, paragraph f, Code  
28 2011, is amended to read as follows:

29     *f.* Conviction of ~~a criminal offense~~ an aggravated  
30 misdemeanor or felony involving dishonesty or a false statement  
31 including but not limited to fraud, theft, misappropriation of  
32 funds, falsification of documents, deceptive acts or practices,  
33 or other related offenses.

34     Sec. 20. Section 543B.15, subsection 3, paragraph c, Code  
35 2011, is amended by striking the paragraph.





1 chairperson of the ARRC, is amended. The bill provides that  
2 the chairperson for the term commencing with the convening  
3 of the first regular session of each general assembly and  
4 ending upon the convening of the second regular session of that  
5 general assembly shall be chosen by the committee from its  
6 members who are members of the house of representatives. The  
7 chairperson for the term commencing with the convening of the  
8 second regular session of each general assembly and ending upon  
9 the convening of the first regular session of the next general  
10 assembly shall be chosen by the committee from its members  
11 who are members of the senate. Current law provides that the  
12 chairperson shall be selected by the ARRC from the membership  
13 of the ARRC.

14 Code section 17A.8(9), concerning the session delay  
15 authority of the ARRC, is amended to provide that the ARRC,  
16 upon a two-thirds vote, may suspend the applicability of  
17 a rule promulgated under Code section 17A.5(2)(b), until  
18 the adjournment of the next regular session of the general  
19 assembly. The bill also provides that action to suspend the  
20 applicability of a rule under this new provision must be taken  
21 within 35 days of the effective date of the rule. In addition,  
22 the bill provides that the ARRC may utilize the session delay  
23 authority for a portion of a rule. Under current law, rules  
24 promulgated under Code section 17A.5(2)(b) take effect upon  
25 filing and are not subject to the session delay authority of  
26 the ARRC.

27 As it relates to agency decision making generally, the bill  
28 requires that boards and commissions operate under Roberts  
29 rules of order, revised.

30 The bill also relates to agency action concerning  
31 professional or occupational licensing. The bill restricts the  
32 ability of a licensing board to consider a deferred judgment  
33 when deciding whether to suspend or revoke a license or impose  
34 some other licensee discipline. The bill also generally limits  
35 offenses which may be considered to aggravated misdemeanors or

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1 felonies.