

Senate File 236 - Introduced

SENATE FILE 236
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1072)

A BILL FOR

1 An Act relating to the practices and procedures of the
2 department of public safety including the state fire service
3 and emergency response council, the state building code
4 commissioner, fingerprint records, disposition records,
5 the sex offender registry, and access to deferred judgment
6 docket records.

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

1 Section 1. Section 100B.1, subsection 1, paragraph a,
2 subparagraph (1), subparagraph division (c), Code 2011, is
3 amended to read as follows:

4 (c) ~~One member~~ Two members from a list submitted by the Iowa
5 association of professional fire fighters.

6 Sec. 2. Section 100B.1, subsection 1, paragraph a,
7 subparagraph (1), subparagraph division (e), Code 2011, is
8 amended by striking the subparagraph division.

9 Sec. 3. Section 104B.1, subsection 4, Code 2011, is amended
10 by striking the subsection.

11 Sec. 4. Section 690.2, Code 2011, is amended to read as
12 follows:

13 **690.2 Finger and palm prints — photographs — duty of**
14 **sheriff and chief of police.**

15 The sheriff of every county, and the chief of police of
16 each city regardless of the form of government thereof, shall
17 take the fingerprints of all unidentified dead bodies in their
18 respective jurisdictions and all persons who are taken into
19 custody for the commission of a serious misdemeanor, aggravated
20 misdemeanor, or felony and shall forward such fingerprint
21 records on such forms and in such manner as may be prescribed
22 by the commissioner of public safety, within two working days
23 after the fingerprint records are taken, to the department of
24 public safety and, ~~if appropriate, to the federal bureau of~~
25 ~~investigation.~~ Fingerprints may be taken of a person who has
26 been arrested for a simple misdemeanor subject to an enhanced
27 penalty for conviction of a second or subsequent offense. In
28 addition to the fingerprints as herein provided, any such
29 officer may also take the photograph and palm prints of any
30 such person and forward them to the department of public
31 safety. If a defendant is convicted by a court of this state of
32 an offense which is a simple misdemeanor subject to an enhanced
33 penalty for conviction of a second or subsequent offense, a
34 serious misdemeanor, an aggravated misdemeanor, or a felony,
35 the court shall determine whether such defendant has previously

1 been fingerprinted in connection with the criminal proceedings
2 leading to the conviction and, if not, shall order that the
3 defendant be fingerprinted and those prints submitted to the
4 department of public safety. The court shall also order that
5 a juvenile adjudicated delinquent for an offense which would
6 be an offense other than a simple misdemeanor if committed by
7 an adult, be fingerprinted and the prints submitted to the
8 department of public safety if the juvenile has not previously
9 been fingerprinted. The taking of fingerprints for a serious
10 misdemeanor offense under chapter 321 or 321A is not required
11 under this section.

12 Sec. 5. Section 690.4, Code 2011, is amended to read as
13 follows:

14 **690.4 Fingerprints and photographs at institutions.**

15 1. The warden of the Iowa medical and classification center
16 and superintendent of the state training school shall take or
17 procure the taking of the fingerprints, and, in the case of
18 the Iowa medical and classification center only, Bertillon
19 photographs of any person received on commitment to their
20 respective institutions, and shall forward such fingerprint
21 records and photographs within ten days after they are taken
22 to the department of public safety ~~and to the federal bureau~~
23 ~~of investigation.~~ Information obtained from fingerprint cards
24 submitted pursuant to this section may be retained by the
25 department of public safety as criminal history records. If
26 a charge for a serious misdemeanor, aggravated misdemeanor,
27 or felony is brought against a person already in the custody
28 of a law enforcement or correctional agency and the charge is
29 filed in a case separate from the case for which the person
30 was previously arrested or confined, the agency shall take the
31 fingerprints of the person in connection with the new case and
32 submit them to the department of public safety.

33 2. The wardens and superintendents of all department
34 of corrections facilities shall procure the taking of a
35 photograph showing the facial features of each inmate of a

1 state correctional institution prior to the inmate's discharge.
2 The photograph shall be placed in the inmate's file and shall
3 be made available to the Iowa department of public safety upon
4 request.

5 Sec. 6. Section 692.15, subsection 6, Code 2011, is amended
6 to read as follows:

7 6. Any disposition report shall be sent to the department
8 within thirty days after disposition either electronically or
9 on a printed form provided by the department.

10 Sec. 7. Section 692A.102, subsection 1, paragraph a,
11 subparagraph (6), subparagraph division (b), Code 2011, is
12 amended to read as follows:

13 (b) Stalking in violation of section 708.11, ~~except a~~
14 ~~violation of subsection 3, paragraph "b", subparagraph (3),~~ if
15 a determination is made that the offense was sexually motivated
16 pursuant to section 692A.126, except a violation of section
17 708.11, subsection 3, paragraph "b", subparagraph (3), shall be
18 classified a tier II offense as provided in paragraph "b".

19 Sec. 8. Section 692A.126, subsection 1, paragraph g, Code
20 2011, is amended to read as follows:

21 g. Stalking in violation of section 708.11, ~~subsection 3,~~
22 ~~paragraph "b", subparagraph (3).~~

23 Sec. 9. Section 907.4, Code 2011, is amended to read as
24 follows:

25 **907.4 Deferred judgment docket.**

26 A deferment of judgment under section 907.3 shall be entered
27 promptly by the clerk of the district court, or the clerk's
28 designee, into the deferred judgment database of the state,
29 which shall serve as the deferred judgment docket. The docket
30 shall contain a permanent record of the deferred judgment
31 including the name and date of birth of the defendant, the
32 district court docket number, the nature of the offense, and
33 the date of the deferred judgment. Before granting deferred
34 judgment in any case, the court shall search the deferred
35 judgment docket and shall consider any prior record of a

1 deferred judgment against the defendant. The permanent record
2 provided for in this section is a confidential record exempted
3 from public access under section 22.7 and shall be available
4 only to justices of the supreme court, judges of the court of
5 appeals, district judges, district associate judges, judicial
6 magistrates, clerks of the district court, judicial district
7 departments of correctional services, county attorneys, the
8 department of public safety, and the department of corrections
9 requesting information pursuant to this section, or the
10 designee of a justice, judge, magistrate, clerk, judicial
11 district department of correctional services, or county
12 attorney, or ~~department~~ departments.

13 EXPLANATION

14 This bill relates to the practices and procedures of the
15 department of public safety.

16 The bill changes the membership on the state fire service
17 and emergency response council. The bill strikes the member
18 on the council from the Iowa fire fighters group and adds an
19 additional member to the council from the Iowa association of
20 professional fire fighters.

21 The bill eliminates the authority of the state building
22 code commissioner to adopt rules to enforce Code chapter 104B
23 (minimum plumbing facilities). The plumbing and mechanical
24 systems board's authority to establish rules relating to
25 plumbing is not affected by the bill.

26 The bill eliminates the requirement that a local law
27 enforcement agency, the department of corrections, the warden
28 of the Iowa medical and classification center, and the state
29 training school to send fingerprints, and in some cases
30 photographs, to the federal bureau of investigation (FBI).
31 The bill does not eliminate the requirement of such entities
32 to send fingerprints, palm prints, and photographs to the
33 department of public safety.

34 The bill specifies that the courts may send the disposition
35 records of criminal cases to the department of public safety

1 in an electronic format. Current law requires the disposition
2 records of criminal cases to be sent by the courts to the
3 department of public safety on a form prescribed by the
4 department.

5 The bill specifies that all persons who commit stalking
6 in violation of Code section 708.11 shall register as a sex
7 offender under Code chapter 692A, if the finder of fact (judge
8 or jury) determines the offense was sexually motivated.

9 The bill permits the department of public safety to have
10 access to the deferred judgment docket. Current law allows
11 judges and other state agencies access to the deferred judgment
12 docket. A deferred judgment is a sentencing option where both
13 the adjudication of guilt and the imposition of a sentence are
14 deferred by the court.