

House File 2385 - Introduced

HOUSE FILE 2385
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HF 2157)

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 2014, 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 2014, 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 2014,
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 in governing the conduct
23 of agency meetings unless it is inconsistent with Iowa law.

24 Sec. 4. Section 17A.4, subsection 1, paragraph b, Code 2014,
25 is amended to read as follows:

26 b. (1) Afford all interested persons not less than twenty
27 days to submit data, views, or arguments in writing, including
28 in an electronic format. If timely requested in writing by
29 twenty-five interested persons, by a governmental subdivision,
30 by the administrative rules review committee, by an agency, or
31 by an association having not less than twenty-five members, the
32 agency must give interested persons an opportunity to make oral
33 presentation.

34 (2) The agency shall provide an opportunity to make these
35 oral presentations using the Iowa communications network

1 or other electronic means if a request is received from
2 twenty-five interested persons residing in the same city or
3 county.

4 (3) The opportunity for oral presentation must be held
5 at least twenty days after publication of the notice of its
6 time and place in the Iowa administrative bulletin. The
7 agency shall consider fully all written and oral submissions
8 respecting the proposed rule. Within one hundred eighty
9 days following either the notice published according to the
10 provisions of paragraph "a" or within one hundred eighty
11 days after the last date of the oral presentations on the
12 proposed rule, whichever is later, the agency shall adopt a
13 rule pursuant to the rulemaking proceeding or shall terminate
14 the proceeding by publishing notice of termination in the Iowa
15 administrative bulletin.

16 Sec. 5. Section 17A.4, subsection 2, Code 2014, is amended
17 to read as follows:

18 2. An agency shall include in a preamble to each rule it
19 adopts a specific reference to the Code section or sections
20 being implemented and a brief explanation of the principal
21 reasons for its action and, if applicable, a brief explanation
22 of the principal reasons for its failure to provide in that
23 rule for the waiver of the rule in specified situations
24 if no such waiver provision is included in the rule. ~~This~~
25 ~~explanatory requirement does not apply when the agency adopts a~~
26 ~~rule that only defines the meaning of a provision of law if the~~
27 ~~agency does not possess delegated authority to bind the courts~~
28 ~~to any extent with its definition. In addition, if requested~~
29 ~~to do so by an interested person, either prior to adoption~~
30 ~~or within thirty days thereafter, the agency shall issue a~~
31 ~~concise statement of the principal reasons for and against the~~
32 ~~rule adopted, incorporating therein the reasons for overruling~~
33 ~~considerations urged against the rule. This concise statement~~
34 ~~shall be issued either at the time of the adoption of the~~
35 ~~rule or within thirty-five days after the agency receives the~~

1 ~~request.~~

2 Sec. 6. NEW SECTION. 17A.24 Rule implementation of federal
3 statute, regulation, or policy.

4 1. Except as otherwise explicitly authorized by state law,
5 an agency charged with the implementation of a federal statute,
6 regulation, or policy shall not implement the federal statute,
7 regulation, or policy in a manner that exceeds the specific
8 requirements of the federal statute, regulation, or policy.

9 2. Any portion of an agency rule or policy that implements
10 a federal statute, regulation, or policy and that exceeds the
11 specific requirements of the federal statute, regulation, or
12 policy is automatically superceded by the specific requirements
13 of that federal statute, regulation, or policy.

14 Sec. 7. Section 80A.4, subsection 1, paragraph g, Code 2014,
15 is amended to read as follows:

16 g. Has not been convicted of a ~~crime described in section~~
17 ~~708.3, 708.4, 708.5, 708.6, 708.8, or 708.9~~ felony.

18 Sec. 8. Section 99G.24, subsection 7, paragraph a, Code
19 2014, is amended to read as follows:

20 a. Has been convicted of a ~~criminal offense~~ public offense
21 related to the security or integrity of the lottery in this or
22 any other jurisdiction.

23 Sec. 9. Section 135C.33, subsection 1, paragraph a, Code
24 2014, is amended to read as follows:

25 a. For the purposes of this section, ~~the term "crime" does~~
26 ~~not include offenses under chapter 321 classified as a simple~~
27 ~~misdemeanor or equivalent simple misdemeanor offenses from~~
28 ~~another jurisdiction~~ means an aggravated misdemeanor or felony.

29 Sec. 10. Section 147.55, subsection 5, Code 2014, is amended
30 to read as follows:

31 5. Conviction of a ~~crime~~ an aggravated misdemeanor or felony
32 related to the profession or occupation of the licensee or the
33 conviction of ~~any crime~~ an aggravated misdemeanor or felony
34 that would directly affect the licensee's ability to practice
35 within a profession. A copy of the record of conviction or

1 ~~plea of guilty~~ shall be conclusive evidence of the conviction.

2 Sec. 11. Section 148.6, subsection 2, paragraph b, Code
3 2014, is amended to read as follows:

4 b. Being convicted of a felony in the courts of this state
5 or another state, territory, or country. Conviction as used in
6 this paragraph shall include a conviction of an offense which
7 if committed in this state would be deemed a felony without
8 regard to its designation elsewhere, ~~or a criminal proceeding~~
9 ~~in which a finding or verdict of guilt is made or returned, but~~
10 ~~the adjudication of guilt is either withheld or not entered.~~

11 A certified copy of the final order or judgment of conviction
12 ~~or plea of guilty~~ in this state or in another state shall be
13 conclusive evidence of the conviction.

14 Sec. 12. Section 153.34, subsection 9, Code 2014, is amended
15 to read as follows:

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

26 Sec. 13. Section 156.9, subsection 2, paragraph e, Code
27 2014, is amended to read as follows:

28 e. Conviction of ~~any crime~~ an aggravated misdemeanor
29 or felony related to the practice of mortuary science or
30 implicating the licensee's competence to safely perform
31 mortuary science services, including but not limited to a
32 ~~crime~~ an aggravated misdemeanor or felony involving moral
33 character, dishonesty, fraud, theft, embezzlement, extortion,
34 or controlled substances, in a court of competent jurisdiction
35 in this state, or in another state, territory, or district of

1 the United States, or in a foreign jurisdiction. ~~For purposes~~
2 ~~of this paragraph, "conviction" includes a guilty plea, deferred~~
3 ~~judgment, or other finding of guilt.~~ A certified copy of the
4 judgment is ~~prima facie~~ conclusive evidence of the conviction.

5 Sec. 14. Section 169.13, subsection 1, paragraph b, Code
6 2014, is amended to read as follows:

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

17 Sec. 15. Section 272C.1, subsection 6, Code 2014, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. ag. The state racing and gaming commission
20 created in section 99D.5.

21 Sec. 16. Section 272C.3, Code 2014, is amended by adding the
22 following new subsection:

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

31 Sec. 17. Section 523A.503, subsection 1, paragraph f, Code
32 2014, is amended to read as follows:

33 f. Conviction of ~~a criminal offense~~ an aggravated
34 misdemeanor or felony involving dishonesty or a false statement
35 including but not limited to fraud, theft, misappropriation of

1 funds, falsification of documents, deceptive acts or practices,
2 or other related offenses.

3 Sec. 18. Section 543B.15, subsection 3, paragraph c, Code
4 2014, is amended by striking the paragraph.

5 Sec. 19. Section 543B.29, subsection 1, paragraph f,
6 unnumbered paragraph 1, Code 2014, is amended to read as
7 follows:

8 Conviction of an offense included in section 543B.15,
9 subsection 3. ~~For purposes of this section, "conviction" means~~
10 ~~a conviction for an indictable offense and includes the court's~~
11 ~~acceptance of a guilty plea, a deferred judgment from the time~~
12 ~~of entry of the deferred judgment until the time the defendant~~
13 ~~is discharged by the court without entry of judgment, or other~~
14 ~~finding of guilt by a court of competent jurisdiction. A copy~~
15 ~~of the record of conviction, guilty plea, deferred judgment, or~~
16 ~~other finding of guilt is conclusive evidence.~~

17

EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill relates to the rulemaking process and more
21 generally to agency decision making. As it relates to the
22 rulemaking process, the bill requires that the preamble
23 to proposed rulemaking specifically cite the statute being
24 implemented, and that agencies accept written material in an
25 electronic format, and allow persons to make oral presentations
26 on rules through the Iowa communications network or other
27 electronic means.

28 The bill provides that an agency shall not implement a
29 federal statute, regulation, or policy in a manner that exceeds
30 the specific requirements of the federal statute, regulation,
31 or policy, unless explicitly authorized by state law.

32 As it relates to agency decision making generally, the bill
33 requires that boards and commissions operate under Robert's
34 rules of order.

35 The bill also relates to agency action concerning

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1 professional or occupational licensing. The bill restricts the
2 ability of a licensing board to consider a deferred judgment
3 when deciding whether to suspend or revoke a license or impose
4 some other licensee discipline. The bill also generally limits
5 offenses which may be so considered to aggravated misdemeanors
6 and felonies.