

Senate File 2382 - Introduced

SENATE FILE 2382
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2196)

A BILL FOR

1 An Act relating to criminal law and procedure including certain
2 related administrative proceedings, providing penalties, and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION I
EXPUNGEMENTS

Section 1. Section 123.46, subsection 6, Code 2018, is amended to read as follows:

6. Upon the expiration of two years following conviction for a violation of **this section** ~~and a violation~~ or of a similar local ordinance ~~that arose from the same transaction or occurrence~~, a person may petition the court to expunge the conviction ~~including the conviction for a violation of a local ordinance that arose from the same transaction or occurrence~~, and if the person has had no other criminal convictions, other than local traffic violations or simple misdemeanor violations of **chapter 321** during the two-year period, the conviction ~~and the conviction for a violation of a local ordinance that arose from the same transaction or occurrence~~ shall be expunged as a matter of law. The court shall enter an order that the record of the conviction and the conviction for a violation of a local ordinance that arose from the same transaction or occurrence be expunged by the clerk of the district court. Notwithstanding **section 692.2**, after receipt of notice from the clerk of the district court that a record of conviction ~~and the conviction for a violation of a local ordinance that arose from the same transaction or occurrence~~ has been expunged, the record of conviction ~~and the conviction for a violation of a local ordinance that arose from the same transaction or occurrence~~ shall be removed from the criminal history data files maintained by the department of public safety if such a record was maintained in the criminal history data files.

Sec. 2. NEW SECTION. **901C.3 Misdemeanor — expungement.**

1. Upon application of a defendant convicted of a misdemeanor offense, the court shall enter an order expunging the record of such a criminal case, as a matter of law, if the defendant has established that more than eight years have passed since the date of the conviction, the defendant is not the subject of a protective order or a no-contact

1 order, the defendant has no pending criminal charges, the
2 defendant has not been subsequently convicted of or granted a
3 deferred judgment for any criminal offense, other than a simple
4 misdemeanor conviction under chapter 321 or of a similar local
5 ordinance, and all court costs, fees, fines, and restitution
6 and other financial obligations ordered by the court or
7 assessed by the clerk of the district court have been paid.

8 2. An expungement under this section shall not be entered
9 for any of the following misdemeanor convictions:

10 a. A conviction under section 123.46 or similar local
11 ordinance.

12 b. A simple misdemeanor conviction under section 123.47,
13 subsection 3, or similar local ordinance.

14 c. A conviction for dependent adult abuse under section
15 235B.20.

16 d. A conviction under section 321.218, 321A.32, or 321J.21.

17 e. A conviction under section 321J.2.

18 f. A conviction for a sex offense as defined in section
19 692A.101.

20 g. A conviction for involuntary manslaughter under section
21 707.5.

22 h. A conviction for assault under section 708.2, subsection
23 3.

24 i. A conviction under section 708.2A.

25 j. A conviction for harassment under section 708.7.

26 k. A conviction for stalking under section 708.11.

27 l. A conviction for removal of an officer's communication or
28 control device under section 708.12.

29 m. A conviction for trespass under section 716.8, subsection
30 3 or 4.

31 n. A conviction under chapter 717C.

32 o. A conviction under chapter 719.

33 p. A conviction under chapter 720.

34 q. A conviction under section 721.2.

35 r. A conviction under section 721.10.

- 1 s. A conviction under section 723.1.
- 2 t. A conviction under chapter 724.
- 3 u. A conviction under chapter 726.
- 4 v. A conviction under chapter 728.
- 5 w. A conviction under chapter 901A.
- 6 x. A conviction for a comparable offense listed in 49 C.F.R.
- 7 §383.51(b) (table 1), and 49 C.F.R. §383.51(e) (table 4).
- 8 y. A conviction under prior law of an offense comparable to
- 9 an offense enumerated in this subsection.

10 3. A person shall only be allowed to apply for an
11 expungement of a record under this section one time in
12 the person's lifetime. However, the one application may
13 request the expungement of records relating to more than one
14 misdemeanor offense if the misdemeanor offenses arose from the
15 same transaction or occurrence, and the application contains
16 the misdemeanor offenses to be expunged.

17 4. The expunged record under this section is a confidential
18 record exempt from public access under section 22.7 but shall
19 be made available by the clerk of the district court upon court
20 order.

21 5. Notwithstanding section 692.2, after receipt of
22 notice from the clerk of the district court that a record of
23 conviction has been expunged under subsection 1, the record
24 of conviction shall be removed from the criminal history data
25 files maintained by the department of public safety if such a
26 record was maintained in the criminal history data files.

27 6. The supreme court may prescribe rules governing the
28 procedures applicable to the expungement of a criminal case
29 under this section.

30 7. This section applies to a misdemeanor conviction that
31 occurred prior to, on, or after July 1, 2018.

32 DIVISION II

33 ROBBERY

34 Sec. 3. NEW SECTION. 702.26 **Simulated firearm.**

35 "*Simulated firearm*" means a device which is not a firearm,

1 but which is expressly represented to be a firearm, or
2 an object which is not a firearm but which is impliedly
3 represented to be a firearm and which under the circumstances
4 would lead a reasonable person to believe it to be a firearm.

5 **Sec. 4. NEW SECTION. 702.27 Simulated explosive.**

6 "*Simulated explosive*" means a device which is not an
7 explosive, but which is expressly represented to be an
8 explosive, or a device which is not an explosive but is
9 impliedly represented to be an explosive and which by its
10 appearance would lead a reasonable person to believe it to be
11 an explosive.

12 **Sec. 5.** Section 711.2, Code 2018, is amended to read as
13 follows:

14 **711.2 Robbery in the first degree.**

15 A person commits robbery in the first degree when, while
16 perpetrating a robbery, the person purposely inflicts or
17 attempts to inflict serious injury, or is armed with a
18 dangerous weapon, simulated firearm, or simulated explosive.
19 Robbery in the first degree is a class "B" felony.

20 **Sec. 6.** Section 711.3, Code 2018, is amended to read as
21 follows:

22 **711.3 Robbery in the second degree.**

23 All robbery which is not robbery in the first degree is
24 robbery in the second degree, ~~except as provided in section~~
25 ~~711.3A.~~ Robbery in the second degree is a class "C" felony.

26 **Sec. 7.** Section 901.11, Code 2018, is amended by adding the
27 following new subsection:

28 **NEW SUBSECTION. 2A.** At the time of sentencing, the court
29 shall determine when a person convicted of robbery in the first
30 degree as described in section 902.12, subsection 2A, shall
31 first become eligible for parole or work release within the
32 parameters specified in section 902.12, subsection 2A, based
33 upon all pertinent information including the person's criminal
34 record, a validated risk assessment, and the negative impact
35 the offense has had on the victim or other persons.

1 Sec. 12. Section 714.2, Code 2018, is amended to read as
2 follows:

3 **714.2 Degrees of theft.**

4 1. The theft of property exceeding ten thousand dollars in
5 value, or the theft of property from the person of another, or
6 from a building which has been destroyed or left unoccupied
7 because of physical disaster, riot, bombing, or the proximity
8 of battle, or the theft of property which has been removed from
9 a building because of a physical disaster, riot, bombing, or
10 the proximity of battle, is theft in the first degree. Theft
11 in the first degree is a class "C" felony.

12 2. The theft of property exceeding one thousand five
13 hundred dollars but not exceeding ten thousand dollars in value
14 or theft of a motor vehicle as defined in [chapter 321](#) not
15 exceeding ten thousand dollars in value, is theft in the second
16 degree. Theft in the second degree is a class "D" felony.
17 However, for purposes of [this subsection](#), "motor vehicle" does
18 not include a motorized bicycle as defined in section 321.1,
19 subsection 40, paragraph "b".

20 3. The theft of property exceeding five seven hundred fifty
21 dollars but not exceeding one thousand five hundred dollars in
22 value, or the theft of any property not exceeding five hundred
23 dollars in value by one who has before been twice convicted of
24 theft, is theft in the third degree. Theft in the third degree
25 is an aggravated misdemeanor.

26 4. The theft of property exceeding ~~two~~ three hundred dollars
27 in value but not exceeding ~~five~~ seven hundred fifty dollars
28 in value is theft in the fourth degree. Theft in the fourth
29 degree is a serious misdemeanor.

30 5. The theft of property not exceeding ~~two~~ three hundred
31 dollars in value is theft in the fifth degree. Theft in the
32 fifth degree is a simple misdemeanor.

33 Sec. 13. Section 714.3A, subsection 1, Code 2018, is amended
34 to read as follows:

35 1. A person commits aggravated theft when the person commits

1 an assault as defined in section 708.1, subsection 2, paragraph
2 "a", that is punishable as a simple misdemeanor under section
3 708.2, subsection 6, after the person has removed or attempted
4 to remove property not exceeding ~~two~~ three hundred dollars in
5 value which has not been purchased from a store or mercantile
6 establishment, or has concealed such property of the store or
7 mercantile establishment, either on the premises or outside the
8 premises of the store or mercantile establishment.

9 Sec. 14. Section 714.7B, subsection 6, paragraphs a and b,
10 Code 2018, are amended to read as follows:

11 a. A simple misdemeanor if the value of the goods, wares, or
12 merchandise does not exceed ~~two~~ three hundred dollars.

13 b. A serious misdemeanor if the value of the goods, wares,
14 or merchandise exceeds ~~two~~ three hundred dollars.

15 Sec. 15. Section 714.10, subsection 1, Code 2018, is amended
16 to read as follows:

17 1. Fraudulent practice in the second degree is the
18 following:

19 a. A fraudulent practice where the amount of money or value
20 of property or services involved exceeds one thousand five
21 hundred dollars but does not exceed ten thousand dollars.

22 b. A fraudulent practice where the amount of money or
23 value of property or services involved does not exceed one
24 thousand five hundred dollars by one who has been convicted of
25 a fraudulent practice twice before.

26 Sec. 16. Section 714.11, subsection 1, paragraph a, Code
27 2018, is amended to read as follows:

28 a. A fraudulent practice where the amount of money or value
29 of property or services involved exceeds ~~five~~ seven hundred
30 fifty dollars but does not exceed one thousand five hundred
31 dollars.

32 Sec. 17. Section 714.12, Code 2018, is amended to read as
33 follows:

34 **714.12 Fraudulent practice in the fourth degree.**

35 1. Fraudulent practice in the fourth degree is a fraudulent

1 practice where the amount of money or value of property or
2 services involved exceeds ~~two~~ three hundred dollars but does
3 not exceed ~~five~~ seven hundred fifty dollars.

4 2. Fraudulent practice in the fourth degree is a serious
5 misdemeanor.

6 Sec. 18. Section 714.13, Code 2018, is amended to read as
7 follows:

8 **714.13 Fraudulent practice in the fifth degree.**

9 1. Fraudulent practice in the fifth degree is a fraudulent
10 practice where the amount of money or value of property or
11 services involved does not exceed ~~two~~ three hundred dollars.

12 2. Fraudulent practice in the fifth degree is a simple
13 misdemeanor.

14 Sec. 19. Section 715A.6, subsection 2, paragraphs b and c,
15 Code 2018, are amended to read as follows:

16 *b.* If the value of the property or services secured or
17 sought to be secured by means of the credit card is greater
18 than one thousand five hundred dollars but not more than ten
19 thousand dollars, an offense under [this section](#) is a class "D"
20 felony.

21 *c.* If the value of the property or services secured
22 or sought to be secured by means of the credit card is one
23 thousand five hundred dollars or less, an offense under this
24 section is an aggravated misdemeanor.

25 Sec. 20. Section 715A.8, subsection 3, paragraphs b and c,
26 Code 2018, are amended to read as follows:

27 *b.* If the value of the credit, property, services, or other
28 benefit exceeds one thousand five hundred dollars but does not
29 exceed ten thousand dollars, the person commits a class "D"
30 felony.

31 *c.* If the value of the credit, property, services, or other
32 benefit does not exceed one thousand five hundred dollars, the
33 person commits an aggravated misdemeanor.

34 Sec. 21. Section 716.4, subsection 1, Code 2018, is amended
35 to read as follows:

1 1. Criminal mischief is criminal mischief in the second
2 degree if the cost of replacing, repairing, or restoring the
3 property that is damaged, defaced, altered, or destroyed
4 exceeds one thousand five hundred dollars but does not exceed
5 ten thousand dollars.

6 Sec. 22. Section 716.5, subsection 1, paragraph a, Code
7 2018, is amended to read as follows:

8 a. The cost of replacing, repairing, or restoring the
9 property that is damaged, defaced, altered, or destroyed
10 exceeds ~~five~~ seven hundred fifty dollars, but does not exceed
11 one thousand five hundred dollars.

12 Sec. 23. Section 716.6, subsection 1, paragraph a,
13 subparagraph (1), Code 2018, is amended to read as follows:

14 (1) The cost of replacing, repairing, or restoring the
15 property that is damaged, defaced, altered, or destroyed
16 exceeds ~~two~~ three hundred dollars, but does not exceed ~~five~~
17 seven hundred fifty dollars.

18 Sec. 24. Section 716.8, subsections 2 and 4, Code 2018, are
19 amended to read as follows:

20 2. Any person committing a trespass as defined in section
21 716.7, other than a trespass as defined in section 716.7,
22 subsection 2, paragraph "a", subparagraph (6), which results in
23 injury to any person or damage in an amount more than ~~two~~ three
24 hundred dollars to anything, animate or inanimate, located
25 thereon or therein commits a serious misdemeanor.

26 4. A person committing a trespass as defined in section
27 716.7 with the intent to commit a hate crime which results in
28 injury to any person or damage in an amount more than ~~two~~ three
29 hundred dollars to anything, animate or inanimate, located
30 thereon or therein commits an aggravated misdemeanor.

31 Sec. 25. Section 716.10, subsection 2, paragraphs d, e, f,
32 and g, Code 2018, are amended to read as follows:

33 d. A person commits railroad vandalism in the fourth degree
34 if the person intentionally commits railroad vandalism which
35 results in property damage which costs ten thousand dollars

1 or less but more than one thousand five hundred dollars to
2 replace, repair, or restore. Railroad vandalism in the fourth
3 degree is a class "D" felony.

4 e. A person commits railroad vandalism in the fifth degree
5 if the person intentionally commits railroad vandalism which
6 results in property damage which costs more than ~~five~~ seven
7 hundred fifty dollars but does not exceed one thousand five
8 hundred dollars to replace, repair, or restore. Railroad
9 vandalism in the fifth degree is an aggravated misdemeanor.

10 f. A person commits railroad vandalism in the sixth degree
11 if the person intentionally commits railroad vandalism which
12 results in property damage which costs more than ~~one~~ three
13 hundred dollars but does not exceed five seven hundred fifty
14 dollars to replace, repair, or restore. Railroad vandalism in
15 the sixth degree is a serious misdemeanor.

16 g. A person commits railroad vandalism in the seventh
17 degree if the person intentionally commits railroad vandalism
18 which results in property damage which costs ~~one~~ three hundred
19 dollars or less to replace, repair, or restore. Railroad
20 vandalism in the seventh degree is a simple misdemeanor.

21 Sec. 26. Section 716A.2, subsection 2, paragraph b, Code
22 2018, is amended to read as follows:

23 b. The revenue generated from a specific unsolicited bulk
24 electronic mail transmission exceeds one thousand five hundred
25 dollars or the total revenue generated from all unsolicited
26 bulk electronic mail transmitted to any electronic mail service
27 provider by the person exceeds fifty thousand dollars.

28 DIVISION IV

29 REVOCATION OF DRIVER'S LICENSE FOR DRUG-RELATED CONVICTIONS

30 Sec. 27. Section 124.412, Code 2018, is amended to read as
31 follows:

32 **124.412 Notice of conviction.**

33 If a person enters a plea of guilty to, or forfeits bail
34 or collateral deposited to secure the person's appearance in
35 court, and such forfeiture is not vacated, or if a person

1 is found guilty upon an indictment or information alleging a
2 violation of [this chapter](#), a copy of the minutes attached to
3 the indictment returned by the grand jury, or to the county
4 attorney's information, a copy of the judgment and sentence,
5 and a copy of the opinion of the judge if one is filed, shall
6 be sent by the clerk of the district court or the judge to
7 ~~the state department of transportation and to~~ any state board
8 or officer by whom the convicted person has been licensed or
9 registered to practice the person's profession or carry on
10 the person's business. On the conviction of a person, the
11 court may suspend or revoke the license or registration of the
12 convicted defendant to practice the defendant's profession
13 or carry on the defendant's business. On the application of
14 a person whose license or registration has been suspended or
15 revoked, and upon proper showing and for good cause, the board
16 or officer may reinstate the license or registration.

17 Sec. 28. Section 321.212, subsection 1, paragraph d, Code
18 2018, is amended by striking the paragraph.

19 Sec. 29. Section 321.215, subsection 1, paragraph b, Code
20 2018, is amended to read as follows:

21 *b.* However, a temporary restricted license shall not be
22 issued to a person whose license is revoked pursuant to a court
23 order issued under ~~section 901.5, subsection 10,~~ or under
24 section 321.209, subsections 1 through 5 or subsection 7; to a
25 juvenile whose license has been suspended or revoked pursuant
26 to a dispositional order under section 232.52, subsection
27 2, paragraph "a", for a violation of [chapter 124](#) or [453B](#) or
28 section 126.3; to a juvenile whose license has been suspended
29 under [section 321.213B](#); or to a person whose license has been
30 suspended pursuant to a court order under [section 714.7D](#). A
31 temporary restricted license may be issued to a person whose
32 license is revoked under [section 321.209, subsection 6](#), only
33 if the person has no previous drag racing convictions. A
34 person holding a temporary restricted license issued by the
35 department under [this section](#) shall not operate a motor vehicle

1 for pleasure.

2 Sec. 30. Section 321.215, subsection 2, unnumbered
3 paragraph 1, Code 2018, is amended to read as follows:

4 Upon conviction and the suspension or revocation of a
5 person's noncommercial driver's license under section 321.209,
6 subsection 5 or 6, or [section 321.210](#), [321.210A](#), or [321.513](#);
7 ~~or upon revocation pursuant to a court order issued under~~
8 ~~[section 901.5](#), [subsection 10](#)~~; or upon the denial of issuance
9 of a noncommercial driver's license under [section 321.560](#),
10 based solely on offenses enumerated in section 321.555,
11 subsection 1, paragraph "c", or section 321.555, subsection
12 2; or upon suspension or revocation of a juvenile's driver's
13 license pursuant to a dispositional order under section 232.52,
14 subsection 2, paragraph "a", for a violation of [chapter 124](#)
15 or [453B](#), or [section 126.3](#); or upon suspension of a driver's
16 license pursuant to a court order under [section 714.7D](#), the
17 person may apply to the department for a temporary restricted
18 license to operate a motor vehicle for the limited purpose or
19 purposes specified in [subsection 1](#). The application may be
20 granted only if all of the following criteria are satisfied:

21 Sec. 31. Section 321.215, subsection 2, paragraph c, Code
22 2018, is amended to read as follows:

23 c. Proof of financial responsibility is established as
24 defined in [chapter 321A](#). However, such proof is not required
25 if the driver's license was suspended under [section 321.210A](#)
26 or [321.513](#) ~~or revoked pursuant to a court order issued under~~
27 ~~[section 901.5](#), [subsection 10](#)~~.

28 Sec. 32. Section 321.218, subsection 1, Code 2018, is
29 amended to read as follows:

30 1. A person whose driver's license or operating privilege
31 has been denied, canceled, suspended, or revoked as provided
32 in [this chapter](#) or as provided in [section 252J.8](#) ~~or section~~
33 ~~[901.5](#), [subsection 10](#)~~, and who operates a motor vehicle upon
34 the highways of this state while the license or privilege
35 is denied, canceled, suspended, or revoked, commits a

1 simple misdemeanor. In addition to any other penalties, the
2 punishment imposed for a violation of [this subsection](#) shall
3 include assessment of a fine of not less than two hundred fifty
4 dollars nor more than one thousand five hundred dollars.

5 Sec. 33. Section 321A.17, subsection 4, Code 2018, is
6 amended to read as follows:

7 4. An individual applying for a driver's license following a
8 period of suspension or revocation pursuant to a dispositional
9 order issued under [section 232.52, subsection 2](#), paragraph
10 "a", or under [section 321.180B](#), section 321.210, subsection
11 1, paragraph "a", subparagraph (4), or [section 321.210A](#),
12 [321.213A](#), [321.213B](#), [321.216B](#), or [321.513](#), following a period
13 of suspension or revocation under [section 321.178](#) or [321.194](#),
14 or following a period of revocation pursuant to a court order
15 issued under ~~[section 901.5, subsection 10](#)~~, or under section
16 321J.2A, is not required to maintain proof of financial
17 responsibility under [this section](#).

18 Sec. 34. Section 901.5, subsection 10, Code 2018, is amended
19 by striking the subsection.

20 Sec. 35. REINSTATEMENT OF DRIVER'S LICENSE. A defendant's
21 driver's license suspended or revoked pursuant to section
22 901.5, subsection 10, prior to the effective date of this Act,
23 shall be reinstated, if the defendant is otherwise eligible for
24 a driver's license.

25 Sec. 36. CONTINGENT EFFECTIVE DATE. This division of this
26 Act takes effect on the date the governor submits to the United
27 States secretary of transportation a written certification
28 that the governor is opposed to the enforcement in this state
29 of a law described in 23 U.S.C. §159(a)(3)(A) and a written
30 certification that the general assembly has adopted a joint
31 resolution expressing its opposition to the same, in accordance
32 with 23 U.S.C. §159(a)(3)(B). The office of the governor shall
33 notify the Code editor upon submission of the certifications
34 described in this section.

35

DIVISION V

THEFT, FRAUD, AND FORGERY REVISIONS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Sec. 37. NEW SECTION. 714.2A Consolidation of theft offenses.

For purposes of charging a person with theft, any conduct specified as theft in section 714.1, subsections 1 through 10, constitutes a single offense of theft embracing the separated offenses of theft known as taking, misappropriation, theft by deception, possession or receipt of stolen property, fraudulent conversion, check fraud, theft from a public utility, unlawful access to a computer, theft of video rental property, and other similar offenses related to theft. An accusation of theft may be supported by evidence that it was committed in any manner that would be theft under sections 714.1, subsections 1 through 10, notwithstanding the specification of a different manner in the complaint, indictment, or information, subject only to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or surprise.

Sec. 38. Section 715A.2, subsection 2, paragraph a, Code 2018, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) A driver's license, nonoperator's identification card, birth certificate, or occupational license or certificate in support of an occupational license issued by a department, agency, board, or commission in this state.

Sec. 39. Section 715A.2A, subsection 1, paragraphs a and b, Code 2018, are amended to read as follows:

a. Hires a person when the employer or an agent or employee of the employer knows that the document evidencing the person's authorized stay or employment in the United States is in violation of [section 715A.2, subsection 2, paragraph "a"](#), subparagraph (4) or (5), or knows that the person is not authorized to be employed in the United States.

b. Continues to employ a person when the employer or an agent or employee of the employer knows that the document

1 evidencing the person's authorized stay or employment in the
2 United States is in violation of [section 715A.2, subsection 2,](#)
3 paragraph "a", subparagraph (4) or (5), or knows that the person
4 is not authorized to be employed in the United States.

5 Sec. 40. Section 802.5, Code 2018, is amended to read as
6 follows:

7 **802.5 Extension for fraud, fiduciary breach.**

8 1. If the periods prescribed in [sections 802.3 and 802.4](#)
9 have expired, prosecution may nevertheless be commenced for any
10 offense a material element of which is either fraud or a breach
11 of fiduciary obligation within one year after discovery of the
12 offense by an aggrieved party or by a person who has a legal
13 duty to represent an aggrieved party and who is not a party to
14 the offense, but in no case shall this provision extend the
15 period of limitation otherwise applicable by more than ~~three~~
16 five years.

17 2. A prosecution may be commenced under this section as
18 long as the appropriate law enforcement agency has not delayed
19 the investigation in bad faith. This subsection shall not be
20 construed to require a law enforcement agency to pursue an
21 unknown offender with due diligence.

22 DIVISION VI

23 CRIMINAL PROCEEDINGS

24 Sec. 41. NEW SECTION. 701.12 Reference to victim in
25 criminal proceeding.

26 In a criminal prosecution, the prosecuting attorney or
27 a witness may refer to a person using the term "victim"
28 during any criminal proceeding including at trial, if there
29 is sufficient evidence to support a finding that the person
30 referred to as the victim meets the definition of a victim in
31 section 915.10. A conviction shall not be reversed on appeal
32 based upon a reference or references to a person as a victim
33 during a criminal proceeding, if there is sufficient evidence
34 in the record to support a finding that the person meets the
35 definition of victim in section 915.10.

1 Sec. 42. Section 814.6, subsection 1, paragraph a, Code
2 2018, is amended to read as follows:

3 a. A final judgment of sentence, except in ~~ease of~~ the
4 following cases:

5 (1) A simple misdemeanor and ordinance violation
6 convictions conviction.

7 (2) An ordinance violation.

8 (3) A conviction where the defendant has pled guilty. This
9 subparagraph does not apply to a guilty plea for a class "A"
10 felony.

11 Sec. 43. Section 814.6, subsection 2, Code 2018, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. f. An order denying a motion in arrest of
14 judgment on grounds other than an ineffective assistance of
15 counsel claim.

16 Sec. 44. Section 814.7, Code 2018, is amended to read as
17 follows:

18 **814.7 Ineffective assistance claim on appeal in a criminal**
19 **case.**

20 ~~1.~~ An ineffective assistance of counsel claim in a
21 criminal case shall be determined by filing an application
22 for postconviction relief pursuant to [chapter 822](#), ~~except as~~
23 ~~otherwise provided in [this section](#).~~ The claim need not be
24 raised on direct appeal from the criminal proceedings in order
25 to preserve the claim for postconviction relief purposes,
26 and the claim shall not be decided on direct appeal from the
27 criminal proceedings.

28 ~~2.~~ A party may, but is not required to, raise an ineffective
29 assistance claim on direct appeal from the criminal proceedings
30 if the party has reasonable grounds to believe that the record
31 is adequate to address the claim on direct appeal.

32 ~~3.~~ If an ineffective assistance of counsel claim is raised
33 on direct appeal from the criminal proceedings, the court may
34 decide the record is adequate to decide the claim or may choose
35 to preserve the claim for determination under [chapter 822](#).

1 Sec. 45. NEW SECTION. **814.28 General verdicts.**

2 When the prosecution relies on multiple or alternative
3 theories to prove the commission of a public offense, a jury
4 may return a general verdict. If the jury returns a general
5 verdict, an appellate court shall not set aside or reverse such
6 a verdict on the basis of a defective or insufficient theory
7 if one or more of the theories presented and described in the
8 complaint, information, or indictment is sufficient to sustain
9 the verdict on at least one count.

10 Sec. 46. NEW SECTION. **814.29 Guilty pleas — challenges.**

11 If a defendant challenges a guilty plea based on an alleged
12 defect in the plea proceedings, the plea shall not be vacated
13 unless the defendant demonstrates that the defendant more
14 likely than not would not have pled guilty if the defect had
15 not occurred. The burden applies whether the challenge is
16 made through a motion in arrest of judgment or on appeal. Any
17 provision in the Iowa rules of criminal procedure that are
18 inconsistent with this section shall have no legal effect.

19 Sec. 47. Section 822.6, unnumbered paragraph 1, Code 2018,
20 is amended to read as follows:

21 Within thirty days after the docketing of the application,
22 or within any further time the court may fix, the state shall
23 respond by answer or by motion which may be supported by
24 affidavits. At any time prior to entry of judgment the court
25 may grant leave to withdraw the application. The court may
26 make appropriate orders for amendment of the application or
27 any pleading or motion, for pleading over, for filing further
28 pleadings or motions, or for extending the time of the filing
29 of any pleading. In considering the application the court
30 shall take account of substance regardless of defects of form.
31 ~~If the application is not accompanied by the record of the~~
32 ~~proceedings challenged therein, the respondent shall file with~~
33 ~~its answer the record or portions thereof that are material to~~
34 ~~the questions raised in the application.~~

35 Sec. 48. NEW SECTION. **822.10A Underlying criminal offense.**

1 The court file containing the conviction for which an
2 applicant seeks postconviction relief shall be part of the
3 record in any action under this chapter. Upon the filing
4 of an application for postconviction relief pursuant to
5 section 822.3, the clerk of the district court shall make the
6 underlying criminal file records accessible to the applicant,
7 county attorney, and attorney general. If the criminal file
8 records are not available in electronic format, the clerk of
9 the district court shall convert the records to an electronic
10 format and make the records available to the applicant, county
11 attorney, and attorney general.

12 DIVISION VII

13 STATE AND COUNTY MEDICAL EXAMINER DEATH REPORTS AND
14 INVESTIGATIONS

15 Sec. 49. Section 331.802, subsection 5, Code 2018, is
16 amended by adding the following new paragraphs:

17 NEW PARAGRAPH. *c.* In formulating findings and conclusions
18 regarding the cause and manner of death, the state medical
19 examiner or county medical examiner shall be allowed to rely
20 upon and include in the report referred to in subsection 2,
21 paragraph "a", any information provided by the county attorney
22 or law enforcement agency to the medical examiner making the
23 autopsy.

24 NEW PARAGRAPH. *d.* The state medical examiner or county
25 medical examiner may rely upon and consider statements by
26 witnesses or other persons for purposes of developing a
27 clinical history of the decedent that preceded death when
28 formulating findings and conclusions on the cause and manner of
29 death. A court shall not exclude a medical examiner's opinion
30 as to the cause of death on the basis that the medical examiner
31 relied on out-of-court statements in forming that opinion, and
32 such an opinion shall not constitute reversible error.

33 Sec. 50. Section 331.802, subsection 6, Code 2018, is
34 amended to read as follows:

35 6. a. The report of an investigation made by the state

1 medical examiner or a county medical examiner and the record
2 and report of an autopsy made under this section or chapter
3 691, shall be received as evidence in any court or other
4 proceedings, ~~except that statements by witnesses or other~~
5 ~~persons and conclusions on extraneous matters included in the~~
6 ~~report are not admissible~~ including any findings of the state
7 medical examiner or county medical examiner and any information
8 provided by a prosecuting attorney or law enforcement agency,
9 if the information is admissible under the Iowa rules of
10 evidence or have otherwise been substantially admitted into
11 evidence. The person preparing a report or record given
12 in evidence may be subpoenaed as a witness in any civil or
13 criminal case by any party to the cause. A copy of a record,
14 photograph, laboratory finding, or record in the office of the
15 state medical examiner or any medical examiner, when attested
16 to by the state medical examiner or a staff member or the
17 medical examiner in whose office the record, photograph, or
18 finding is filed, shall be received as evidence in any court
19 or other proceedings for any purpose for which the original
20 could be received without proof of the official character of
21 the person whose name is signed to it.

22 b. The state medical examiner and county medical examiner
23 may rely upon and consider statements by witnesses or other
24 persons for purposes of developing a clinical history of the
25 decedent that preceded death when formulating findings and
26 conclusions on the cause and manner of death.

27 Sec. 51. NEW SECTION. 691.5A Investigations.

28 In lieu of conducting an investigation pursuant to this
29 chapter, the state medical examiner may rely exclusively upon
30 the findings of the county medical examiner, county attorney,
31 or a law enforcement agency.

32 DIVISION VIII

33 CRIMINAL PENALTIES

34 Sec. 52. Section 124.401, subsection 5, Code 2018, is
35 amended to read as follows:

1 5. It is unlawful for any person knowingly or intentionally
2 to possess a controlled substance unless such substance was
3 obtained directly from, or pursuant to, a valid prescription
4 or order of a practitioner while acting in the course of the
5 practitioner's professional practice, or except as otherwise
6 authorized by [this chapter](#). Any Except as otherwise provided
7 in this subsection, any person who violates this subsection
8 is guilty of a serious misdemeanor for a first offense. A
9 person who commits a violation of [this subsection](#) and who has
10 previously been convicted of violating [this chapter](#) or chapter
11 124B or [453B](#), or [chapter 124A](#) as it existed prior to July 1,
12 2017, is guilty of an aggravated misdemeanor. A person who
13 commits a violation of [this subsection](#) and has previously
14 been convicted two or more times of violating [this chapter](#) or
15 chapter 124B or [453B](#), or [chapter 124A](#) as it existed prior to
16 July 1, 2017, is guilty of a class "D" felony.

17 a. (1) If Except as otherwise provided in subparagraph (4),
18 if the controlled substance is marijuana, the punishment shall
19 be by imprisonment in the county jail for not more than six
20 months or by a fine of not more than one thousand dollars, or by
21 both such fine and imprisonment for a first offense.

22 (2) If the controlled substance is marijuana and the person
23 has been previously convicted of a violation of [this subsection](#)
24 in which the controlled substance was marijuana, the punishment
25 shall be as provided in [section 903.1, subsection 1](#), paragraph
26 "b".

27 (3) If the controlled substance is marijuana and the person
28 has been previously convicted two or more times of a violation
29 of [this subsection](#) in which the controlled substance was
30 marijuana, the person is guilty of an aggravated misdemeanor.

31 (4) If the controlled substance is marijuana and is five
32 grams or less and subparagraphs (2) and (3) do not apply, the
33 person is guilty of a simple misdemeanor.

34 b. Convictions for violations in any other states under
35 statutes substantially corresponding to this subsection shall

1 be counted as previous offenses. The courts shall judicially
2 notice the statutes of other states which define offenses
3 substantially equivalent to the offenses defined in this
4 subsection and can therefore be considered corresponding
5 statutes. Each previous violation on which a conviction was
6 entered prior to the date of the violation charged shall be
7 considered and counted as separate previous offense.

8 c. All or any part of a sentence imposed pursuant to
9 this subsection may be suspended and the person placed upon
10 probation upon such terms and conditions as the court may
11 impose including the active participation by such person in a
12 drug treatment, rehabilitation or education program approved
13 by the court.

14 d. If a person commits a violation of [this subsection](#), the
15 court shall order the person to serve a term of imprisonment of
16 not less than forty-eight hours. Any sentence imposed may be
17 suspended, and the court shall place the person on probation
18 upon such terms and conditions as the court may impose. If
19 the person is not sentenced to confinement under the custody
20 of the director of the department of corrections, the terms
21 and conditions of probation shall require submission to random
22 drug testing. If the person fails a drug test, the court may
23 transfer the person's placement to any appropriate placement
24 permissible under the court order.

25 e. If the controlled substance is amphetamine, its salts,
26 isomers, or salts of its isomers, or methamphetamine, its
27 salts, isomers, or salts of its isomers, the court shall order
28 the person to serve a term of imprisonment of not less than
29 forty-eight hours. Any sentence imposed may be suspended,
30 and the court shall place the person on probation upon such
31 terms and conditions as the court may impose. The court may
32 place the person on intensive probation. However, the terms
33 and conditions of probation shall require submission to random
34 drug testing. If the person fails a drug test, the court may
35 transfer the person's placement to any appropriate placement

1 permissible under the court order.

2 Sec. 53. Section 707.6A, subsection 2, Code 2018, is amended
3 by adding the following new paragraph:

4 NEW PARAGRAPH. c. Exceeding the speed limit by twenty-five
5 miles per hour or more, in violation of section 321.285,
6 321.290, 321.293, or 321.295, if the death of the other person
7 directly or indirectly results from the violation of section
8 321.285, 321.290, 321.293, or 321.295. This paragraph shall
9 not apply to a member of a public safety agency, as defined in
10 section 34.1, performing official duties.

11 Sec. 54. Section 901.11, Code 2018, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 4. At the time of sentencing, the court
14 shall determine when a person convicted of arson in the first
15 degree as described in section 902.12, subsection 4, shall
16 first become eligible for parole or work release within the
17 parameters specified in section 902.12, subsection 3, based
18 upon all pertinent information including the person's criminal
19 record, a validated risk assessment, and the negative impact
20 the offense has had on the victim or other persons.

21 Sec. 55. Section 902.12, Code 2018, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 4. A person serving a sentence for a
24 conviction for arson in the first degree in violation of
25 section 712.2 that occurs on or after July 1, 2018, shall
26 be denied parole or work release until the person has served
27 between one-half and seven-tenths of the maximum term of
28 the person's sentence as determined under section 901.11,
29 subsection 4.

30 DIVISION IX

31 JUROR SERVICE AND DONATIONS

32 Sec. 56. Section 602.1302, subsection 3, Code 2018, is
33 amended to read as follows:

34 3. A revolving fund is created in the state treasury
35 for the payment of jury and witness fees, including juror

1 compensation and reimbursement donated pursuant to section
2 607A.8A, mileage, costs related to summoning jurors by the
3 judicial branch, costs and fees related to the management and
4 payment of interpreters and translators in judicial branch
5 legal proceedings and court-ordered programs, and attorney
6 fees paid by the state public defender for counsel appointed
7 pursuant to [section 600A.6A](#). The judicial branch shall
8 deposit any reimbursements to the state for the payment of
9 jury and witness fees and mileage in the revolving fund. In
10 each calendar quarter the judicial branch shall reimburse
11 the state public defender for attorney fees paid pursuant to
12 section 600A.6B. Notwithstanding [section 8.33](#), unencumbered
13 and unobligated receipts in the revolving fund at the end of
14 a fiscal year do not revert to the general fund of the state.
15 The judicial branch shall on or before February 1 file a
16 financial accounting of the moneys in the revolving fund with
17 the legislative services agency. The accounting shall include
18 an estimate of disbursements from the revolving fund for the
19 remainder of the fiscal year and for the next fiscal year.

20 Sec. 57. NEW SECTION. 607A.6A Jury manager authority to
21 excuse or defer juror service.

22 The chief judge of the judicial district may authorize a jury
23 manager to excuse persons from juror service in accordance with
24 section 607A.4, 607A.5, or 607A.6 and to defer persons from
25 juror service in accordance with section 607A.4, 607A.5, or
26 607A.6, or for any other reason.

27 Sec. 58. Section 607A.8, subsection 3, Code 2018, is amended
28 to read as follows:

29 3. A grand juror or a petit juror in all courts may
30 waive the right of the juror to receive compensation under
31 subsection 1 or reimbursement under [subsection 2](#) or donate such
32 compensation or reimbursement pursuant to section 607A.8A.

33 Sec. 59. NEW SECTION. 607A.8A Donation of juror
34 compensation or reimbursement to state funds and charitable
35 organizations.

1 1. At the discretion of a juror, the clerk of court may
2 deduct an amount specified of the juror's compensation or
3 reimbursement under section 607A.8 for payment to a designated
4 eligible state fund or charitable use or organization.

5 2. Moneys deducted pursuant to this section shall be
6 paid promptly to the appropriate state fund or charitable
7 organization.

8 3. The state court administrator shall establish six
9 separate accounts for juror designated moneys for deposit into
10 the designated state fund or for charitable use or distribution
11 as provided in subsection 4.

12 4. (1) The state funds eligible to receive juror designated
13 compensation include all of the following:

14 (a) The victim compensation fund established in section
15 915.94.

16 (b) The court technology and modernization fund established
17 in section 602.8108.

18 (2) The charitable accounts shall be used for or distributed
19 to any of the following:

20 (a) Domestic violence shelters or services.

21 (b) Specialized courts related to drug treatment, operating
22 while intoxicated offenses, or mental health.

23 (c) Pro se litigants.

24 (d) The Iowa interest on lawyers trust account.

25 Sec. 60. NEW SECTION. 607A.48 Public access to juror
26 information.

27 Public access to juror and prospective juror information
28 shall be limited. The addresses and dates of birth of
29 prospective jurors are confidential and not subject to
30 disclosure without an order of the court.

31 EXPLANATION

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

34 This bill relates to criminal law and procedure including
35 certain related administrative proceedings, provides penalties,

1 and includes effective date provisions.

2 DIVISION I — EXPUNGEMENTS. This division relates to the
3 expungement of records of certain misdemeanor offenses.

4 The term "expunged" means the court's criminal record with
5 reference to a deferred judgment or any other criminal record
6 has been segregated in a secure area or database which is
7 exempted from public access.

8 A person shall not receive an expungement pursuant to the
9 bill unless all court costs, fees, fines, and restitution and
10 other financial obligations ordered by the court or assessed by
11 the clerk of the district court have been paid.

12 The division provides that upon the application of a
13 defendant convicted of a misdemeanor, the court shall enter
14 an order expunging the record of such criminal case, as a
15 matter of law, if the defendant has established that more than
16 eight years have passed since the date of the conviction,
17 the defendant is not the subject of a protective order or
18 a no-contact order, the defendant has no pending criminal
19 charges, the defendant has not been subsequently convicted of
20 or granted a deferred judgment for a criminal offense, other
21 than a simple misdemeanor conviction under Code chapter 321 or
22 of a similar local ordinance, and all court costs, fees, fines,
23 and restitution and other financial obligations ordered by the
24 court or assessed by the clerk of the district court have been
25 paid.

26 The division strikes the provision allowing for the
27 expungement of a local ordinance violation that arose out of
28 the same transaction or occurrence of a conviction under Code
29 section 123.46 (consumption or intoxication in public place).

30 The division does not apply to the following misdemeanor
31 offenses: simple misdemeanor convictions under Code sections
32 123.46 (consumption or intoxication in public place) or
33 similar local ordinances and 123.47(3) (alcohol consumption
34 by persons under legal age) or similar local ordinances,
35 because expungement procedures already exist for both

1 offenses; convictions for dependent adult abuse under Code
2 section 235B.20; convictions relating to operating a motor
3 vehicle with an invalid driver's license under Code section
4 321.218, 321A.32, or 321J.21; convictions for operating while
5 intoxicated under Code section 321J.2; convictions of a sex
6 offense as defined in Code section 692A.101; convictions for
7 involuntary manslaughter under Code section 707.5; convictions
8 for assault involving a dangerous weapon under Code section
9 708.2(3); convictions for domestic abuse assault under Code
10 section 708.2A; convictions for harassment under Code section
11 708.7; convictions for stalking under Code section 708.11;
12 convictions for removal of an officer's communication or
13 control device under Code section 708.12; convictions for
14 trespass under Code section 716.8(3) or (4); convictions under
15 Code chapter 717C (bestiality); convictions under Code chapter
16 719 (obstructing justice); convictions under Code chapter 720
17 (interference with judicial process); convictions under Code
18 section 721.2 (nonfelonious conduct in office); convictions
19 under Code section 721.10 (misuse of public records and files);
20 convictions under Code section 723.1 (riot); convictions under
21 Code chapter 724 (weapons); convictions under Code chapter 726
22 (protections of the family and dependent persons); convictions
23 under Code chapter 728 (obscenity); convictions under Code
24 chapter 901A (sexually predatory offenses); a conviction for
25 a comparable offense listed in 49 C.F.R. §383.51(b) (table
26 1), and 49 C.F.R. §383.51(e) (table 4) (commercial driver's
27 licenses); and any conviction under prior law of an offense
28 comparable to an offense enumerated in the bill.

29 The division prohibits a person from applying more than once
30 for an expungement of the person's record. However, the one
31 application may request the expungement of records relating
32 to more than one misdemeanor offense if the misdemeanor
33 offenses arose from the same transaction or occurrence, and the
34 application contains the misdemeanor offenses to be expunged.

35 The division provides that the expunged record under the

1 bill is a confidential record exempt from public access under
2 Code section 22.7 but shall be made available by the clerk of
3 the district court upon court order.

4 The division also provides that after receipt of notice from
5 the clerk of the district court that a record of conviction has
6 been expunged, the record of conviction shall be removed from
7 the criminal history data files maintained by the department of
8 public safety if such a record was maintained in the criminal
9 history data files.

10 The division provides that the supreme court may prescribe
11 rules governing expungement procedures applicable to criminal
12 cases pursuant to the division.

13 The division applies to misdemeanor convictions that occur
14 prior to, on, or after July 1, 2018.

15 DIVISION II — ROBBERY. This division modifies the criminal
16 offense of robbery in the first degree to include circumstances
17 when a person commits a robbery with a simulated firearm or
18 simulated explosive. Currently, a person commits robbery in
19 the first degree when the person purposely inflicts or attempts
20 to inflict serious injury, or is armed with a dangerous weapon.
21 Robbery in the first degree is a class "B" felony. A person
22 convicted of a class "B" felony shall also be denied parole or
23 work release until the person has served at least 70 percent of
24 the sentence pursuant to Code section 902.12.

25 The division defines "simulated firearm" to mean a device
26 which is not a firearm, but which is expressly represented to
27 be a firearm, or an object which is not a firearm but which
28 is impliedly represented to be a firearm and which under the
29 circumstances would lead a reasonable person to believe it to
30 be a firearm.

31 Under the division, a simulated explosive means a device
32 which is not an explosive, but which is expressly represented
33 to be an explosive, or a device which is not an explosive but
34 which is impliedly represented to be an explosive and which by
35 its appearance would lead a reasonable person to believe it to

1 be an explosive.

2 The division provides that a person serving a sentence for
3 a conviction for robbery in the first degree for a conviction
4 that occurs on or after July 1, 2018, shall serve between 50
5 and 70 percent of a 25-year class "B" felony sentence prior
6 to being eligible for parole or work release. In determining
7 when the person is first eligible for parole or work release
8 within such parameters, the sentencing court shall base its
9 determination upon all pertinent information including the
10 person's criminal record, a validated risk assessment, and
11 the negative impact the offense has had on the victim or
12 other persons. The division provides that a person serving
13 a sentence for a conviction of robbery in the first degree
14 for a conviction that occurs prior to July 1, 2018, shall
15 be denied parole or work release until the person has served
16 between one-half and seven-tenths of the maximum term of the
17 person's sentence as determined by the board of parole based
18 upon the person's criminal record, a validated risk assessment,
19 and the negative impact the offense has had on the victim or
20 other persons. Under current law, such a person sentenced to
21 confinement is required to serve at least 70 percent of the
22 25-year maximum class "B" felony sentence prior to becoming
23 eligible for parole or work release.

24 The division does not modify the earned time provisions
25 related to the commission of robbery in the first degree, as a
26 person who commits robbery in the first degree is eligible for
27 a reduction of sentence equal to fifteen eighty-fifths of a day
28 for each day of good conduct by the person under Code section
29 903A.2.

30 Under current law and the division, felonious robbery is
31 also classified as a "forcible felony" under Code section
32 702.11, and a person convicted of felonious robbery is
33 prohibited from receiving a suspended or deferred sentence or
34 deferred judgment pursuant to Code section 907.3.

35 The division repeals the offense of robbery in the third

1 degree, an aggravated misdemeanor. A person commits robbery
2 in the third degree when, while perpetrating a robbery, the
3 person commits a simple misdemeanor assault in violation of
4 Code section 708.2(6).

5 DIVISION III — PROPERTY CRIMES — VALUE. This division
6 increases the value of damaged or stolen property or services
7 necessary to commit certain levels of numerous criminal
8 offenses.

9 THEFT. The division increases the value of property
10 necessary for a person to commit theft in the second degree
11 from property exceeding \$1,000 but not more than \$10,000 to
12 property exceeding \$1,500 but not more than \$10,000. Theft in
13 the second degree is a class "D" felony.

14 The division increases the value of property necessary for
15 a person to commit theft in the third degree from property
16 exceeding \$500 but not more than \$1,000 to property exceeding
17 \$750 but not more than \$1,500. Theft in the third degree is an
18 aggravated misdemeanor.

19 The division increases the value of property necessary for
20 a person to commit theft in the fourth degree from property
21 exceeding \$200 but not more than \$500 to property exceeding
22 \$300 but not more than \$750. Theft in the fourth degree is a
23 serious misdemeanor.

24 The division increases the value of property necessary for a
25 person to commit theft in the fifth degree from property not
26 exceeding \$200 to property not exceeding \$300. Theft in the
27 fifth degree is a simple misdemeanor.

28 AGGRAVATED THEFT. The division increases the value of
29 property necessary for a person to commit aggravated theft from
30 property not exceeding \$200 to property not exceeding \$300.
31 Aggravated theft is an aggravated misdemeanor or a class "D"
32 felony depending upon the circumstances of the crime. Under
33 current law, a person commits aggravated theft when the person
34 commits a simple assault after the person has removed or
35 attempted to remove property not exceeding \$200.

1 THEFT DETECTION DEVICES — SHIELD OR REMOVAL. The division
2 increases the value of property necessary for a person to
3 commit a serious misdemeanor for removal of a theft detection
4 device from property exceeding \$200 in value to property
5 exceeding \$300 in value. The division increases the value of
6 property necessary for a person to commit a simple misdemeanor
7 for removal of a theft detection device from property not
8 exceeding \$200 in value to property not exceeding \$300 in
9 value.

10 FRAUDULENT PRACTICE. Fraudulent practice is defined in Code
11 section 714.8. The division increases the value of property or
12 services necessary for a person to commit fraudulent practice
13 in the second degree from property or services exceeding \$1,000
14 but not more than \$10,000 to property exceeding \$1,500 but not
15 more than \$10,000. Fraudulent practice in the second degree
16 is a class "D" felony.

17 The division increases the value of property or services
18 necessary for a person to commit fraudulent practice in the
19 third degree from property or services exceeding \$500 but not
20 more than \$1,000 to property or services exceeding \$750 but not
21 more than \$1,500. Fraudulent practice in the third degree is
22 an aggravated misdemeanor.

23 The division increases the value of property or services
24 necessary for a person to commit fraudulent practice in the
25 fourth degree from property or services exceeding \$200 but not
26 more than \$500 to property or services exceeding \$300 but not
27 more than \$750. Fraudulent practice in the fourth degree is
28 a serious misdemeanor.

29 The division increases the value of property or services
30 necessary for a person to commit fraudulent practice in the
31 fifth degree from property or services not exceeding \$200 to
32 property or services not exceeding \$300. Fraudulent practice
33 in the fifth degree is a simple misdemeanor.

34 CREDIT CARDS. Under current law, a person commits the class
35 "D" felony offense of credit card fraud when a person illegally

1 secures or seeks to secure property or services by means of
2 a credit card and the value of the property or services is
3 greater than \$1,000 but not more than \$10,000. The division
4 increases the minimum value of property or services necessary
5 for a person to commit such a class "D" felony offense from
6 \$1,000 to \$1,500.

7 Under current law, a person commits the aggravated
8 misdemeanor offense of credit card fraud when a person
9 illegally secures or seeks to secure property or services
10 by means of a credit card and the value of the property or
11 services is \$1,000 or less. The division increases the maximum
12 value of property or services necessary for a person to commit
13 such an aggravated misdemeanor offense from \$1,000 to \$1,500.

14 IDENTITY THEFT. Under current law, a person commits
15 the class "D" felony offense of identity theft when a
16 person fraudulently uses or fraudulently attempts to use
17 identification information of another person, with the intent
18 to obtain credit, property, services, or other benefit, and
19 the value of the credit, property, services, or other benefit
20 exceeds \$1,000 but does not exceed \$10,000. The division
21 increases the minimum value necessary for a person to commit
22 such a class "D" felony offense from \$1,000 to \$1,500.

23 Under current law, a person commits the aggravated
24 misdemeanor offense of identity theft when a person
25 fraudulently uses or fraudulently attempts to use
26 identification information of another person, with the intent
27 to obtain credit, property, or services, or other benefit, and
28 the value of the credit, property, services, or other benefit
29 exceeds \$1,000 but does not exceed \$10,000. The division
30 increases the minimum value necessary for a person to commit
31 such an aggravated misdemeanor offense from \$1,000 to \$1,500.

32 CRIMINAL MISCHIEF. The division increases the value of
33 damaged property that is necessary to commit criminal mischief
34 in the second degree from damaged property exceeding \$1,000 but
35 not more than \$10,000 to damaged property exceeding \$1,500 but

1 not more than \$10,000. Criminal mischief in the second degree
2 is a class "D" felony.

3 The division increases the value of damaged property
4 that is necessary to commit criminal mischief in the third
5 degree from damaged property exceeding \$500 but not more than
6 \$1,000 to damaged property exceeding \$750 but not more than
7 \$1,500. Criminal mischief in the third degree is an aggravated
8 misdemeanor.

9 The division increases the value of damaged property
10 that is necessary to commit criminal mischief in the fourth
11 degree from damaged property exceeding \$200 but not more than
12 \$500 to damaged property exceeding \$300 but not more than
13 \$750. Criminal mischief in the fourth degree is a serious
14 misdemeanor.

15 The division increases the value of damaged property that
16 is necessary to commit criminal mischief in the fifth degree
17 from damaged property not exceeding \$200 to damaged property
18 not exceeding \$300. Criminal mischief in the fifth degree is a
19 simple misdemeanor.

20 TRESPASS. The division increases the value of damaged
21 property that is necessary to commit a serious misdemeanor
22 trespass offense from damaged property of more than \$200 to
23 damaged property of more than \$300.

24 The division increases the value of damaged property that is
25 necessary to commit an aggravated misdemeanor trespass offense
26 involving a hate crime from damaged property of more than \$200
27 to damaged property of more than \$300.

28 RAILROAD VANDALISM. The division increases the value of
29 damaged property that is necessary to commit railroad vandalism
30 in the fourth degree from damaged property exceeding \$1,000 but
31 not more than \$10,000 to damaged property exceeding \$1,500 but
32 not more than \$10,000. Railroad vandalism in the fourth degree
33 is a class "D" felony.

34 The division increases the value of damaged property that
35 is necessary to commit railroad vandalism in the fifth degree

1 from damaged property exceeding \$500 but not more than \$1,000
2 to damaged property exceeding \$750 but not more than \$1,500.
3 Railroad vandalism in the fifth degree is an aggravated
4 misdemeanor.

5 The division increases the value of damaged property
6 that is necessary to commit railroad vandalism in the sixth
7 degree from damaged property exceeding \$200 but not more than
8 \$500 to damaged property exceeding \$300 but not more than
9 \$750. Railroad vandalism in the sixth degree is a serious
10 misdemeanor.

11 The division increases the value of damaged property that is
12 necessary to commit railroad vandalism in the seventh degree
13 from damaged property not exceeding \$200 to damaged property
14 not exceeding \$300. Railroad vandalism in the seventh degree
15 is a simple misdemeanor.

16 TRANSMISSION OF UNSOLICITED BULK ELECTRONIC MAIL (EMAIL).
17 Under current law, a person commits the class "D" felony
18 offense of transmission of unsolicited bulk email when the
19 revenue generated from such a transmissions exceeds \$1,000.
20 The division increases the minimum value necessary for a
21 person to commit such a class "D" felony offense from \$1,000
22 to \$1,500.

23 DIVISION IV — REVOCATION OF DRIVER'S LICENSE FOR
24 DRUG-RELATED CONVICTIONS. Current law requires a court to
25 order the department of transportation (DOT) to revoke a
26 defendant's driver's license for 180 days if a defendant
27 is sentenced for a controlled substance offense under Code
28 section 124.401 (manufacturers, possessors, and counterfeit
29 substances), 124.401A (enhanced penalty for manufacture or
30 distribution on certain property), 124.402 (distributors,
31 registrants, and proprietors), or 124.403 (distribution, use,
32 possession, records, and information), a drug or drug-related
33 offense under Code section 126.3 (prohibited acts related to
34 drugs, devices, and cosmetics), or a controlled substance tax
35 offense under Code chapter 453B. Current law also requires a

1 court to send a copy of the order and a notice of the conviction
2 to the DOT. The division strikes Code section 901.5(10)
3 revoking a defendant's driver's license for 180 days if the
4 defendant is sentenced for a controlled substance offense for
5 an offense under Code section 124.401, 124.401A, 124.402, or
6 124.403.

7 The division makes conforming Code changes to Code sections
8 124.412, 321.212, 321.215, 321.218, and 321A.17.

9 The division provides that a defendant's driver's license
10 suspended or revoked pursuant to Code section 901.5(10) prior
11 to the effective date of the division shall be reinstated if
12 the defendant is otherwise eligible for a driver's license.

13 The division provides a contingent effective date specifying
14 that the division takes effect on the date the governor submits
15 to the United States secretary of transportation a written
16 certification that the governor is opposed to the enforcement
17 in Iowa of a law described in 23 U.S.C. §159(a)(3)(A) and a
18 written certification that the general assembly has adopted
19 a joint resolution expressing its opposition to the same, in
20 accordance with 23 U.S.C. §159(a)(3)(B). The division requires
21 the office of the governor to notify the Code editor upon
22 submission of the certifications.

23 DIVISION V — THEFT, FRAUD, AND FORGERY REVISIONS.

24 THEFT OFFENSES — CONSOLIDATION. The division creates new
25 Code section 714.2A relating to the consolidation of theft
26 offenses. The division provides that for purposes of charging
27 a person with theft, any conduct specified as theft in Code
28 section 714.1(1) through (10), constitutes a single offense
29 of theft embracing the separated offenses of theft known as
30 taking, misappropriation, theft by deception, possession or
31 receipt of stolen property, fraudulent conversion, check fraud,
32 theft from a public utility, unlawful access to a computer,
33 theft of video rental property, and other similar offenses
34 related to theft. An accusation of theft may be supported by
35 evidence that it was committed in any manner that would be

1 theft under Code section 714.1(1) through (10), notwithstanding
2 the specification of a different manner of theft in the
3 complaint, indictment, or information, subject only to the
4 power of the court to ensure a fair trial by granting a
5 continuance or other appropriate relief where the conduct of
6 the defense would be prejudiced by lack of fair notice or
7 surprise.

8 DEFINITION OF FORGERY. The division amends Code section
9 715A.2(2) relating to forgery. Under the division, a person
10 commits forgery when the person possesses a writing that is or
11 purports to be a driver's license, nonoperator's identification
12 card, birth certificate, or occupational license or certificate
13 in support of an occupational license issued by a department,
14 agency, board, or commission in this state. A person who
15 forges such a document commits a class "D" felony. By amending
16 the definition of forgery, the division also changes the
17 circumstances under which an employer is subject to a civil
18 penalty for hiring a person who commits such a forgery,
19 pursuant to Code section 715A.2A (accommodation of forgery).

20 STATUTE OF LIMITATIONS — FRAUD OR BREACH OF FIDUCIARY
21 OBLIGATION. The division amends Code section 802.5 relating
22 to extending the periods of time a prosecution may be brought
23 against a person for any offense involving a material element
24 of fraud or a breach of fiduciary obligation. Under current
25 law, a prosecution may be brought within one year after
26 discovery of the offense by an aggrieved party or by a person
27 who has a legal duty to represent an aggrieved party and who is
28 not a party to the offense. The division specifies that such a
29 prosecution may be brought within five years.

30 DIVISION VI — CRIMINAL PROCEEDINGS.

31 REFERENCE TO VICTIM IN CRIMINAL PROCEEDING. This division
32 creates new Code section 701.12 relating to evidence in a
33 criminal prosecution. Under the division, the prosecuting
34 attorney or a witness may refer to a person using the term
35 "victim" during any criminal proceeding including at trial,

1 if there is sufficient evidence to support a finding that
2 the person referenced as the victim meets the definition of
3 a victim in Code section 915.10. A conviction shall not be
4 reversed based upon a reference to a person as the victim
5 during a criminal proceeding, if there is sufficient evidence
6 to support a finding that the person referenced as the victim
7 meets the definition of a victim in Code section 915.10.

8 DEFENDANT RIGHT TO APPEAL. The division amends Code section
9 814.6(1) by prohibiting the right to appeal to a defendant who
10 has pled guilty to a criminal offense except this prohibition
11 does not apply to a defendant who pleads guilty to a class "A"
12 felony. The right to appeal means that an appellate court
13 cannot deny a defendant's statutory or constitutional right to
14 have the defendant's case reviewed on appeal.

15 The division amends Code section 814.6(2) by specifying that
16 discretionary review by an appellate court applies to an order
17 denying a motion in arrest of judgment on grounds other than an
18 ineffective assistance claim. Under current law, discretionary
19 review applies to an order suppressing or admitting evidence,
20 an order granting or denying a motion for a change of venue,
21 an order denying probation, simple misdemeanor and ordinance
22 violations, and an order raising a question of law important to
23 the judiciary and the profession. Discretionary review is the
24 process by which an appellate court may exercise its discretion
25 to review specified matters not subject to appeal as a matter
26 of right.

27 INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS ON APPEAL. The
28 division amends Code section 814.7 relating to an ineffective
29 assistance claim on appeal in a criminal case. The division
30 prohibits an ineffective assistance claim being raised and
31 decided on direct appeal from the criminal proceedings. Under
32 current law, such a claim may be raised on direct appeal from
33 the criminal proceedings if the record at the trial level is
34 sufficient. Generally, an ineffective assistance of counsel
35 claim is raised on appeal by a criminal defendant alleging

1 the defendant's attorney was so incompetent it deprived the
2 defendant the constitutional right to assistance of counsel.

3 APPEALS FROM THE DISTRICT COURT — GENERAL VERDICT.

4 The division creates new Code section 814.28 relating to
5 general verdicts. When the prosecution relies on multiple
6 or alternative theories to prove the commission of a public
7 offense, a jury may return a general verdict. If the jury
8 returns a general verdict, the division specifies that a court
9 shall not set aside or reverse such a verdict on the basis
10 of a defective or insufficient theory if one or more of the
11 theories presented and described in the complaint, information,
12 or indictment is sufficient to sustain the verdict on at least
13 one count.

14 GUILTY PLEAS — CHALLENGES. If a defendant challenges a
15 guilty plea based on an alleged defect in the plea proceedings,
16 the division provides that the plea shall not be vacated unless
17 the defendant demonstrates it is more likely than not that the
18 defendant would not have pled guilty if the defect had not
19 occurred. The burden applies whether the challenge is made
20 by motion in arrest of judgment or in a challenge on appeal.
21 Any provision in the Iowa rules of criminal procedure that are
22 inconsistent with this provision shall have no legal effect.

23 POSTCONVICTION RELIEF — RECORDS. The division creates new
24 Code section 822.10A relating to postconviction procedure. The
25 division provides that the court file containing the conviction
26 for which the applicant seeks postconviction relief shall be
27 part of the record in any action under Code chapter 822. Upon
28 the filing of an application for postconviction relief pursuant
29 to Code section 822.3, the clerk of the district court shall
30 make the underlying criminal file accessible to the applicant,
31 county attorney, and attorney general. If the criminal file
32 records are not available in electronic format, the division
33 requires the clerk of the district court to convert the records
34 to an electronic format and make the records available to the
35 applicant, county attorney, and attorney general.

1 POSTCONVICTION — RELIEF. The bill strikes a provision that
2 requires the respondent to an application for postconviction
3 relief, to file an answer to the application with relevant
4 portions of the record of the proceedings being challenged, if
5 the applicant fails to file the application without the record
6 of the proceedings being challenged.

7 DIVISION VII — STATE AND COUNTY MEDICAL EXAMINER DEATH
8 REPORTS AND INVESTIGATIONS. Currently, the report of an
9 investigation by the state medical examiner or county medical
10 examiner and the record and report of an autopsy shall be
11 received as evidence in court or other proceedings, except that
12 statements by witnesses or other persons and conclusions on
13 extraneous matters included in the report are inadmissible.
14 The division provides that the report of an investigation made
15 by the state medical examiner or county medical examiner shall
16 be admissible in court including any findings of the state
17 medical examiner or county medical examiner and any information
18 provided by a county attorney or law enforcement agency, if
19 the information is otherwise admissible under the Iowa rules
20 of evidence.

21 The division provides that in formulating findings and
22 conclusions regarding the cause and manner of death, the state
23 medical examiner or county medical examiner shall be allowed
24 to rely upon and include in the report of an investigation
25 any information provided to the medical examiner by a county
26 attorney or law enforcement agency.

27 Additionally, the state medical examiner or county
28 medical examiner may also rely upon and consider statements
29 by witnesses or other persons for purposes of developing a
30 clinical history of the decedent that preceded death when
31 formulating findings and conclusions on the cause and manner of
32 death. A court shall not exclude a medical examiner opinion
33 as the cause of death on the basis that the examiner has
34 considered out-of-court statements in forming that opinion, and
35 such an opinion shall not constitute reversible error.

1 The division also specifies that in lieu of conducting
2 its own investigation, the state medical examiner may rely
3 exclusively upon the findings of the county medical examiner,
4 county attorney, or a law enforcement agency.

5 DIVISION VIII — CRIMINAL PENALTIES.

6 POSSESSION OF A CONTROLLED SUBSTANCE. Currently, if a
7 person commits a first offense possession of marijuana, the
8 offense is punishable by imprisonment in the county jail for
9 not more than six months or by a fine of not more than \$1,000,
10 or by both. If a person commits a second offense possession
11 of marijuana, the person commits a serious misdemeanor, and if
12 a person commits a third or subsequent offense possession of
13 marijuana, the person commits an aggravated misdemeanor.

14 The division decreases the criminal penalty for a first
15 offense possession of marijuana offense from an offense
16 punishable by imprisonment for not more than six months or
17 by a fine of not more than \$1,000, or by both, to a simple
18 misdemeanor punishable by confinement for no more than 30 days
19 or a fine of at least \$65 but not more than \$625 or by both.

20 The division makes convictions for violations in any other
21 state count as a previous offense if the violation in the other
22 state substantially corresponds with possession of controlled
23 substance violations in this state, thus making a person with
24 a conviction in another state more likely to be subject to
25 enhanced penalties for possession of a controlled substance
26 in this state under Code section 124.401(5), as amended by
27 the division. The division specifies that the court shall
28 judicially notice the statutes of other states which define
29 offenses substantially equivalent to possession of a controlled
30 substance.

31 HOMICIDE BY VEHICLE. The division provides that a person
32 commits a class "C" felony when the person unintentionally
33 causes the death of another when exceeding the speed limit by
34 25 miles per hour or more, in violation of Code section 321.285
35 (speed restrictions), 321.290 (special restrictions), 321.293

1 (local authorities may alter limits), or 321.295 (limitation
2 on bridge or elevated structures), if the death of the other
3 person directly or indirectly results from such a violation.
4 This new provision does not apply to a member of a public
5 safety agency, as defined in Code section 34.1, performing
6 official duties.

7 Currently, a person who violates Code section 321.285
8 commits a simple misdemeanor or a simple misdemeanor punishable
9 as a scheduled fine under Code section 805.8A, a person who
10 violates Code section 321.290 or 321.293 commits a simple
11 misdemeanor, and a person who violates Code section 321.295
12 commits a simple misdemeanor punishable as a scheduled fine of
13 \$50.

14 ARSON IN THE FIRST DEGREE. The division requires an
15 offender who commits the criminal offense of arson in the first
16 degree to serve 50 to 70 percent of a 25-year class "B" felony
17 sentence prior to being eligible for parole or work release.
18 Under current law, such an offender is sentenced to confinement
19 for 25 years but is eligible for parole upon entering prison.
20 At the time of sentencing, the division provides that the
21 court determine when a person convicted of arson in the first
22 degree first becomes eligible for parole or work release within
23 the parameters of 50 to 70 percent of the 25-year sentence,
24 based upon all pertinent information including the person's
25 criminal record, a validated risk assessment, and the negative
26 impact the offense has had on the victim or other persons. The
27 division also makes arson in the first degree a category "B"
28 sentence under Code section 903A.2, in effect increasing the
29 length of the sentence by reducing the amount of earned time
30 such a person is eligible for during confinement from one and
31 two-tenths of a day for each day of good conduct to fifteen
32 eighty-fifths of a day for each day of good conduct.

33 JUROR SERVICE AND DONATIONS. The division relates
34 to jurors, including donation of juror compensation or
35 reimbursement, jury manager authority to excuse or defer

1 jurors, and public access to juror information.

2 The division provides that with approval by the chief judge
3 of the judicial district, a jury manager may excuse or defer
4 jurors in accordance with Code section 607A.4, 607A.5, or
5 607A.6. Code section 607A.4 provides minimum qualifications
6 for jury service. Code section 607A.5 provides certain
7 conditions for automatic excuse from jury service. Code
8 section 607A.6 provides certain conditions for discretionary
9 excuse from jury service. The division provides that a jury
10 manager may defer, but not excuse, persons from juror service
11 for reasons beyond those enumerated in these Code sections.

12 The division provides that a juror may donate
13 compensation or reimbursement for juror service to a supreme
14 court-designated state fund or charitable organization. The
15 division requires the state court administrator to establish
16 separate accounts for the deposit of juror-donated moneys
17 depending upon the state fund or charitable use or organization
18 designated by the juror. The division limits the number
19 of state funds or charitable uses or organizations that
20 moneys may be donated to by the juror. The division permits
21 juror donations to be made to the victim compensation fund
22 established in Code section 915.94 or to the court technology
23 and modernization fund in Code section 602.8108. The division
24 permits juror donations for the following charitable uses
25 or organizations: domestic violence shelters or services;
26 specialized courts related to drug treatment, operating while
27 intoxicated offenses, or mental health; pro se litigants; or
28 the Iowa interest on lawyers trust account.

29 The division provides that public access to juror and
30 prospective juror information is limited. The division
31 provides that prospective juror addresses and dates of birth
32 are confidential and are not subject to disclosure without an
33 order of the court.