

**Senate File 405 - Introduced**

SENATE FILE 405

BY DAWSON

**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 and applicability provisions.

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

DIVISION I  
EXPUNGEMENTS

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Section 1. Section 123.46, subsection 6, Code 2019, 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 in the county where the conviction occurred, 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 has no pending

1 criminal charges, and all court costs, fees, fines, and  
2 restitution and other financial obligations ordered by the  
3 court or assessed by the clerk of the district court have been  
4 paid.

5 2. The following misdemeanors shall not be expunged:

6 a. A conviction under section 123.46.

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

9 c. A conviction for dependent adult abuse under section  
10 235B.20.

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

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

13 f. A conviction for a sex offense as defined in section  
14 692A.101.

15 g. A conviction for involuntary manslaughter under section  
16 707.5.

17 h. A conviction for assault under section 708.2, subsection  
18 3.

19 i. A conviction under section 708.2A.

20 j. A conviction for harassment under section 708.7.

21 k. A conviction for stalking under section 708.11.

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

24 m. A conviction for trespass under section 716.8, subsection  
25 3 or 4.

26 n. A conviction under chapter 717C.

27 o. A conviction under chapter 719.

28 p. A conviction under chapter 720.

29 q. A conviction under section 721.2.

30 r. A conviction under section 721.10.

31 s. A conviction under section 723.1.

32 t. A conviction under chapter 724.

33 u. A conviction under chapter 726.

34 v. A conviction under chapter 728.

35 w. A conviction under chapter 901A.

1     *x.* A conviction for a comparable offense listed in 49 C.F.R.  
2 §383.51(b) (table 1) or 49 C.F.R. §383.51(e) (table 4).

3     *y.* A conviction under prior law of an offense comparable to  
4 an offense enumerated in this subsection.

5     *z.* The defendant is the subject of a protective order or a  
6 no-contact order.

7     *aa.* The defendant has been subsequently convicted of or  
8 granted a deferred judgment for any criminal offense, other  
9 than a simple misdemeanor conviction under chapter 321 or of a  
10 similar local ordinance.

11     *ab.* The defendant has previously been granted two deferred  
12 judgments.

13     3. A person shall be granted an expungement of a record  
14 under this section one time in the person's lifetime.

15 However, the one application may request the expungement of  
16 records relating to more than one misdemeanor offense if  
17 the misdemeanor offenses arose from the same transaction or  
18 occurrence, and the application contains the misdemeanor  
19 offenses to be expunged.

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

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

30     6. The supreme court may prescribe rules governing the  
31 procedures applicable to the expungement of a criminal case  
32 under this section.

33     7. This section applies to a misdemeanor conviction that  
34 occurred prior to, on, or after July 1, 2019.

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DIVISION II

1 ROBBERY

2 Sec. 3. Section 711.3, Code 2019, is amended to read as  
3 follows:

4 **711.3 Robbery in the second degree.**

5 All robbery which is not robbery in the first degree is  
6 robbery in the second degree, ~~except as provided in section~~  
7 ~~711.3A~~. Robbery in the second degree is a class "C" felony.

8 Sec. 4. Section 901.11, Code 2019, is amended by adding the  
9 following new subsection:

10 NEW SUBSECTION. 2A. At the time of sentencing, the court  
11 shall determine when a person convicted of robbery in the first  
12 degree as described in section 902.12, subsection 2A, shall  
13 first become eligible for parole or work release within the  
14 parameters specified in section 902.12, subsection 2A, based  
15 upon all pertinent information including the person's criminal  
16 record, a validated risk assessment, and the negative impact  
17 the offense has had on the victim or other persons.

18 Sec. 5. Section 902.12, subsection 1, paragraph e, Code  
19 2019, is amended to read as follows:

20 e. Robbery in the ~~first or~~ second degree in violation of  
21 section ~~711.2 or~~ 711.3, except as determined in **subsection 3**.

22 Sec. 6. Section 902.12, Code 2019, is amended by adding the  
23 following new subsection:

24 NEW SUBSECTION. 2A. A person serving a sentence for a  
25 conviction for robbery in the first degree in violation of  
26 section 711.2 for a conviction that occurs on or after July 1,  
27 2018, shall be denied parole or work release until the person  
28 has served between one-half and seven-tenths of the maximum  
29 term of the person's sentence as determined under section  
30 901.11, subsection 2A.

31 Sec. 7. REPEAL. Section 711.3A, Code 2019, is repealed.

32 DIVISION III

33 PROPERTY CRIMES — VALUE

34 Sec. 8. Section 712.3, Code 2019, is amended to read as  
35 follows:

1       **712.3 Arson in the second degree.**

2       Arson which is not arson in the first degree is arson in the  
3 second degree when the property which is the subject of the  
4 arson is a building or a structure, or real property of any  
5 kind, or standing crops, or is personal property the value of  
6 which exceeds ~~five~~ seven hundred fifty dollars. Arson in the  
7 second degree is a class "C" felony.

8       Sec. 9. Section 714.2, Code 2019, is amended to read as  
9 follows:

10       **714.2 Degrees of theft.**

11       1. The theft of property exceeding ten thousand dollars in  
12 value, or the theft of property from the person of another, or  
13 from a building which has been destroyed or left unoccupied  
14 because of physical disaster, riot, bombing, or the proximity  
15 of battle, or the theft of property which has been removed from  
16 a building because of a physical disaster, riot, bombing, or  
17 the proximity of battle, is theft in the first degree. Theft  
18 in the first degree is a class "C" felony.

19       2. The theft of property exceeding one thousand five  
20 hundred dollars but not exceeding ten thousand dollars in value  
21 or theft of a motor vehicle as defined in [chapter 321](#) not  
22 exceeding ten thousand dollars in value, is theft in the second  
23 degree. Theft in the second degree is a class "D" felony.  
24 However, for purposes of [this subsection](#), "*motor vehicle*" does  
25 not include a motorized bicycle as defined in section 321.1,  
26 subsection 40, paragraph "b".

27       3. The theft of property exceeding ~~five~~ seven hundred fifty  
28 dollars but not exceeding one thousand five hundred dollars in  
29 value, or the theft of any property not exceeding five hundred  
30 dollars in value by one who has before been twice convicted of  
31 theft, is theft in the third degree. Theft in the third degree  
32 is an aggravated misdemeanor.

33       4. The theft of property exceeding ~~two~~ three hundred dollars  
34 in value but not exceeding ~~five~~ seven hundred fifty dollars  
35 in value is theft in the fourth degree. Theft in the fourth

1 degree is a serious misdemeanor.

2 5. The theft of property not exceeding ~~two~~ three hundred  
3 dollars in value is theft in the fifth degree. Theft in the  
4 fifth degree is a simple misdemeanor.

5 Sec. 10. Section 714.3A, subsection 1, Code 2019, is amended  
6 to read as follows:

7 1. A person commits aggravated theft when the person commits  
8 an assault as defined in [section 708.1, subsection 2](#), paragraph  
9 "a", that is punishable as a simple misdemeanor under section  
10 708.2, subsection 6, after the person has removed or attempted  
11 to remove property not exceeding ~~two~~ three hundred dollars in  
12 value which has not been purchased from a store or mercantile  
13 establishment, or has concealed such property of the store or  
14 mercantile establishment, either on the premises or outside the  
15 premises of the store or mercantile establishment.

16 Sec. 11. Section 714.7B, subsection 6, paragraphs a and b,  
17 Code 2019, are amended to read as follows:

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

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

22 Sec. 12. Section 714.10, subsection 1, Code 2019, is amended  
23 to read as follows:

24 1. Fraudulent practice in the second degree is the  
25 following:

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

29 b. A fraudulent practice where the amount of money or  
30 value of property or services involved does not exceed one  
31 thousand five hundred dollars by one who has been convicted of  
32 a fraudulent practice twice before.

33 Sec. 13. Section 714.11, subsection 1, paragraph a, Code  
34 2019, is amended to read as follows:

35 a. A fraudulent practice where the amount of money or value

1 of property or services involved exceeds ~~five~~ seven hundred  
2 fifty dollars but does not exceed one thousand five hundred  
3 dollars.

4 Sec. 14. Section 714.12, Code 2019, is amended to read as  
5 follows:

6 **714.12 Fraudulent practice in the fourth degree.**

7 1. Fraudulent practice in the fourth degree is a fraudulent  
8 practice where the amount of money or value of property or  
9 services involved exceeds ~~two~~ three hundred dollars but does  
10 not exceed ~~five~~ seven hundred fifty dollars.

11 2. Fraudulent practice in the fourth degree is a serious  
12 misdemeanor.

13 Sec. 15. Section 714.13, Code 2019, is amended to read as  
14 follows:

15 **714.13 Fraudulent practice in the fifth degree.**

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

19 2. Fraudulent practice in the fifth degree is a simple  
20 misdemeanor.

21 Sec. 16. Section 715A.6, subsection 2, paragraphs b and c,  
22 Code 2019, are amended to read as follows:

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

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

32 Sec. 17. Section 715A.8, subsection 3, paragraphs b and c,  
33 Code 2019, are amended to read as follows:

34 *b.* If the value of the credit, property, services, or other  
35 benefit exceeds one thousand five hundred dollars but does not



1 exceed ten thousand dollars, the person commits a class "D"  
2 felony.

3 c. If the value of the credit, property, services, or other  
4 benefit does not exceed one thousand five hundred dollars, the  
5 person commits an aggravated misdemeanor.

6 Sec. 18. Section 716.4, subsection 1, Code 2019, is amended  
7 to read as follows:

8 1. Criminal mischief is criminal mischief in the second  
9 degree if the cost of replacing, repairing, or restoring the  
10 property that is damaged, defaced, altered, or destroyed  
11 exceeds one thousand five hundred dollars but does not exceed  
12 ten thousand dollars.

13 Sec. 19. Section 716.5, subsection 1, paragraph a, Code  
14 2019, is amended to read as follows:

15 a. The cost of replacing, repairing, or restoring the  
16 property that is damaged, defaced, altered, or destroyed  
17 exceeds ~~five~~ seven hundred fifty dollars, but does not exceed  
18 one thousand five hundred dollars.

19 Sec. 20. Section 716.6, subsection 1, paragraph a,  
20 subparagraph (1), Code 2019, is amended to read as follows:

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

25 Sec. 21. Section 716.8, subsections 2 and 4, Code 2019, are  
26 amended to read as follows:

27 2. Any person committing a trespass as defined in section  
28 716.7, other than a trespass as defined in section 716.7,  
29 subsection 2, paragraph "a", subparagraph (6), which results in  
30 injury to any person or damage in an amount more than ~~two~~ three  
31 hundred dollars to anything, animate or inanimate, located  
32 thereon or therein commits a serious misdemeanor.

33 4. A person committing a trespass as defined in section  
34 716.7 with the intent to commit a hate crime which results in  
35 injury to any person or damage in an amount more than ~~two~~ three

1 hundred dollars to anything, animate or inanimate, located  
2 thereon or therein commits an aggravated misdemeanor.

3 Sec. 22. Section 716.10, subsection 2, paragraphs d, e, f,  
4 and g, Code 2019, are amended to read as follows:

5 *d.* A person commits railroad vandalism in the fourth degree  
6 if the person intentionally commits railroad vandalism which  
7 results in property damage which costs ten thousand dollars  
8 or less but more than one thousand five hundred dollars to  
9 replace, repair, or restore. Railroad vandalism in the fourth  
10 degree is a class "D" felony.

11 *e.* A person commits railroad vandalism in the fifth degree  
12 if the person intentionally commits railroad vandalism which  
13 results in property damage which costs more than five seven  
14 hundred fifty dollars but does not exceed one thousand five  
15 hundred dollars to replace, repair, or restore. Railroad  
16 vandalism in the fifth degree is an aggravated misdemeanor.

17 *f.* A person commits railroad vandalism in the sixth degree  
18 if the person intentionally commits railroad vandalism which  
19 results in property damage which costs more than ~~one~~ three  
20 hundred dollars but does not exceed five seven hundred fifty  
21 dollars to replace, repair, or restore. Railroad vandalism in  
22 the sixth degree is a serious misdemeanor.

23 *g.* A person commits railroad vandalism in the seventh  
24 degree if the person intentionally commits railroad vandalism  
25 which results in property damage which costs ~~one~~ three hundred  
26 dollars or less to replace, repair, or restore. Railroad  
27 vandalism in the seventh degree is a simple misdemeanor.

28 Sec. 23. Section 716A.2, subsection 2, paragraph b, Code  
29 2019, is amended to read as follows:

30 *b.* The revenue generated from a specific unsolicited bulk  
31 electronic mail transmission exceeds one thousand five hundred  
32 dollars or the total revenue generated from all unsolicited  
33 bulk electronic mail transmitted to any electronic mail service  
34 provider by the person exceeds fifty thousand dollars.

35

DIVISION IV

1 THEFT, FRAUD, AND FORGERY REVISIONS

2 Sec. 24. NEW SECTION. 714.2A Consolidation of theft  
3 offenses.

4 For purposes of charging a person with theft, any conduct  
5 specified as theft in section 714.1, subsections 1 through 10,  
6 constitutes a single offense of theft embracing the separated  
7 offenses of theft known as taking, misappropriation, theft by  
8 deception, possession or receipt of stolen property, fraudulent  
9 conversion, check fraud, theft from a public utility, unlawful  
10 access to a computer, theft of video rental property, and other  
11 similar offenses related to theft. An accusation of theft may  
12 be supported by evidence that it was committed in any manner  
13 that would be theft under sections 714.1, subsections 1 through  
14 10, notwithstanding the specification of a different manner  
15 in the complaint, indictment, or information, subject only  
16 to the power of the court to ensure a fair trial by granting  
17 a continuance or other appropriate relief where the conduct  
18 of the defense would be prejudiced by lack of fair notice or  
19 surprise.

20 Sec. 25. Section 715A.2, subsection 2, paragraph a, Code  
21 2019, is amended by adding the following new subparagraph:

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

26 Sec. 26. Section 715A.2A, subsection 1, paragraphs a and b,  
27 Code 2019, are amended to read as follows:

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

34 b. Continues to employ a person when the employer or an  
35 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. 27. Section 802.5, Code 2019, 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 V

23 CRIMINAL PROCEEDINGS

24 Sec. 28. Section 814.6, subsection 1, paragraph a, Code  
25 2019, is amended to read as follows:

26 a. A final judgment of sentence, except in ~~case of~~ the  
27 following cases:

28 (1) A simple misdemeanor and ordinance violation  
29 convictions conviction.

30 (2) An ordinance violation.

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

34 Sec. 29. Section 814.6, subsection 2, Code 2019, is amended  
35 by adding the following new paragraph:

1 NEW PARAGRAPH. *f.* An order denying a motion in arrest of  
2 judgment on grounds other than an ineffective assistance of  
3 counsel claim.

4 Sec. 30. NEW SECTION. **814.6A Pro se filings by defendant**  
5 **currently represented by counsel.**

6 1. A defendant who is currently represented by counsel shall  
7 not file any pro se document, including a brief, reply brief,  
8 or motion, in any Iowa appellate court. The appellate court  
9 shall not consider, and opposing counsel shall not respond to,  
10 such pro se filings.

11 2. This section does not prohibit a defendant from  
12 proceeding without the assistance of counsel.

13 3. A defendant currently represented by counsel may file a  
14 pro se motion seeking disqualification of the counsel, which a  
15 court may grant upon a showing of good cause.

16 Sec. 31. Section 814.7, Code 2019, 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. 32. 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, indictment, or jury instruction is  
9 sufficient to sustain the verdict on at least one count.

10    Sec. 33. 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. 34. NEW SECTION.   **822.3A Claim of ineffective**  
20 **assistance of counsel.**

21    An ineffective assistance of counsel claim contained in an  
22 application is not a ground of fact or law that could not have  
23 been raised within the applicable time period for purposes of  
24 section 822.3.

25    Sec. 35. NEW SECTION.   **822.3B Pro se filings by applicants**  
26 **currently represented by counsel.**

27    1. An applicant seeking relief under section 822.2 who is  
28 currently represented by counsel shall not file any pro se  
29 document, including an application, brief, reply brief, or  
30 motion, in any Iowa district or appellate court. The district  
31 or appellate court shall not consider, and opposing counsel  
32 shall not respond to, such pro se filings.

33    2. This section does not prohibit an applicant for  
34 postconviction relief from proceeding without the assistance  
35 of counsel.

1 3. A represented applicant for postconviction relief may  
2 file a pro se motion seeking disqualification of counsel, which  
3 a court may grant upon a showing of good cause.

4 Sec. 36. Section 822.6, subsection 1, Code 2019, is amended  
5 to read as follows:

6 1. Within thirty days after the docketing of the  
7 application, or within any further time the court may fix,  
8 the state shall respond by answer or by motion which may  
9 be supported by affidavits. At any time prior to entry of  
10 judgment the court may grant leave to withdraw the application.  
11 The court may make appropriate orders for amendment of the  
12 application or any pleading or motion, for pleading over, for  
13 filing further pleadings or motions, or for extending the time  
14 of the filing of any pleading. In considering the application  
15 the court shall take account of substance regardless of defects  
16 of form. ~~If the application is not accompanied by the record  
17 of the proceedings challenged therein, the respondent shall  
18 file with its answer the record or portions thereof that are  
19 material to the questions raised in the application.~~

20 Sec. 37. NEW SECTION. 901.4B Presentence determinations  
21 and statements.

22 1. Before imposing sentence, the court shall do all of the  
23 following:

24 a. Verify that the defendant and the defendant's attorney  
25 have read and discussed the presentence investigation report  
26 and any addendum to the report.

27 b. Provide the defendant's attorney an opportunity to speak  
28 on the defendant's behalf.

29 c. Address the defendant personally in order to permit the  
30 defendant to make a statement or present any information to  
31 mitigate the defendant's sentence.

32 d. Provide the prosecuting attorney an opportunity to speak.

33 2. After hearing any statements presented pursuant  
34 to subsection 1, and before imposing sentence, the court  
35 shall address any victim of the crime who is present at the

1 sentencing and shall allow any victim to be reasonably heard,  
2 including, but not limited to, by presenting a victim impact  
3 statement in the manner described in section 915.21.

4 3. For purposes of this section "victim" means the same as  
5 defined in section 915.10.

6 DIVISION VI

7 ARSON

8 Sec. 38. Section 901.11, Code 2019, is amended by adding the  
9 following new subsection:

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

18 Sec. 39. Section 902.12, Code 2019, is amended by adding the  
19 following new subsection:

20 NEW SUBSECTION. 4. A person serving a sentence for a  
21 conviction for arson in the first degree in violation of  
22 section 712.2 that occurs on or after July 1, 2019, shall  
23 be denied parole or work release until the person has served  
24 between one-half and seven-tenths of the maximum term of  
25 the person's sentence as determined under section 901.11,  
26 subsection 4.

27 DIVISION VII

28 LIMITATION OF CRIMINAL ACTIONS

29 Sec. 40. Section 802.2, subsection 1, Code 2019, is amended  
30 to read as follows:

31 1. An information or indictment for sexual abuse in the  
32 first, second, or third degree committed on or with a person  
33 who is under the age of eighteen years shall be found within  
34 ~~ten~~ fifteen years after the person upon whom the offense is  
35 committed attains eighteen years of age, or if the person



1 against whom the information or indictment is sought is  
2 identified through the use of a DNA profile, an information or  
3 indictment shall be found within three years from the date the  
4 person is identified by the person's DNA profile, whichever is  
5 later.

6 Sec. 41. Section 802.2A, Code 2019, is amended to read as  
7 follows:

8 **802.2A Incest — sexual exploitation by a counselor,  
9 therapist, or school employee.**

10 1. An information or indictment for incest under section  
11 726.2 committed on or with a person who is under the age of  
12 eighteen shall be found within ~~ten~~ fifteen years after the  
13 person upon whom the offense is committed attains eighteen  
14 years of age. An information or indictment for any other  
15 incest shall be found within ten years after its commission.

16 2. An indictment or information for sexual exploitation by  
17 a counselor, therapist, or school employee under [section 709.15](#)  
18 committed on or with a person who is under the age of eighteen  
19 shall be found within ~~ten~~ fifteen years after the person upon  
20 whom the offense is committed attains eighteen years of age.  
21 An information or indictment for any other sexual exploitation  
22 shall be found within ten years of the date the victim was last  
23 treated by the counselor or therapist, or within ten years of  
24 the date the victim was enrolled in or attended the school.

25 DIVISION VIII

26 STATE AND COUNTY MEDICAL EXAMINER DEATH REPORTS AND  
27 INVESTIGATIONS

28 Sec. 42. Section 331.802, subsection 5, Code 2019, is  
29 amended by adding the following new paragraphs:

30 NEW PARAGRAPH. *c.* In formulating findings and conclusions  
31 regarding the cause and manner of death, the state medical  
32 examiner or county medical examiner shall be allowed to rely  
33 upon and include in the report referred to in subsection 2,  
34 paragraph "a", any information provided by an attorney, law  
35 enforcement agency, witness, or any person with relevant

1 information to the medical examiner conducting the autopsy.

2 NEW PARAGRAPH. *d.* The state medical examiner or county  
3 medical examiner may rely upon and consider statements by  
4 witnesses or other persons for purposes of developing a  
5 clinical history of the decedent that preceded death when  
6 formulating findings and conclusions on the cause and cause  
7 or manner of death. A court shall not exclude a medical  
8 examiner's opinion as to the cause of death on the basis that  
9 the medical examiner relied on out-of-court statements in  
10 forming that opinion, and such an opinion shall not constitute  
11 reversible error.

12 Sec. 43. Section 331.802, subsection 6, Code 2019, is  
13 amended to read as follows:

14 6. a. The report of an investigation made by the state  
15 medical examiner or a county medical examiner and the record  
16 and report of an autopsy made under [this section](#) or chapter  
17 691, shall be received as evidence in any court or other  
18 proceedings, ~~except that statements by witnesses or other~~  
19 ~~persons and conclusions on extraneous matters included in~~  
20 ~~the report are not admissible~~ including any findings of the  
21 state medical examiner or county medical examiner and any  
22 information provided by an attorney, investigative agency,  
23 or witness, and any report deemed necessary by the medical  
24 examiner to accurately certify the cause and manner of death  
25 which are included in the report of the medical examiner if the  
26 information is admissible under the Iowa rules of evidence or  
27 have otherwise been substantially admitted into evidence. The  
28 person preparing a report or record given in evidence may be  
29 subpoenaed as a witness in any civil or criminal case by any  
30 party to the cause. A copy of a record, photograph, laboratory  
31 finding, or record in the office of the state medical examiner  
32 or any medical examiner, when attested to by the state medical  
33 examiner or a staff member or the medical examiner in whose  
34 office the record, photograph, or finding is filed, shall be  
35 received as evidence in any court or other proceedings for any

1 purpose for which the original could be received without proof  
2 of the official character of the person whose name is signed  
3 to it.

4 b. In conducting an investigation or autopsy under this  
5 part, including but not limited to developing a clinical  
6 history of the decedent and formulating findings and  
7 conclusions or forming opinions as to the cause and manner of  
8 death, the state medical examiner or county medical examiner  
9 may use any information provided or available for review,  
10 including but not limited to information or statements by a  
11 witness, a suspect, or any other person with information which  
12 is provided by or obtained in the course of a law enforcement  
13 investigation. Such information or statements which the  
14 medical examiner has used in making the findings, conclusions,  
15 and opinions may also be included in the report of the medical  
16 examiner. A court shall not exclude the medical examiner's  
17 report or opinion as to the cause or manner of death on the  
18 basis that the medical examiner relied on information from  
19 other persons or from a law enforcement agency in forming that  
20 report or opinion. Admission of such a report or opinion shall  
21 not constitute reversible error.

22 EXPLANATION

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

25 This bill relates to criminal law and procedure including  
26 certain related administrative proceedings, provides penalties,  
27 and includes effective date provisions.

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

30 The division strikes a provision in Code section 123.46  
31 relating to the expungement of a conviction for public  
32 intoxication allowing for the expungement of a local ordinance  
33 violation that arose out of the same transaction or occurrence  
34 of a conviction under Code section 123.46.

35 The division provides that upon the application of a

1 defendant convicted of a misdemeanor in the county where the  
2 defendant's conviction occurred, the court shall enter an order  
3 expunging the record of such criminal case, as a matter of law,  
4 if the defendant has established that more than eight years  
5 have passed since the date of the conviction, the defendant has  
6 no pending criminal charges, and all court costs, fees, fines,  
7 and restitution and other financial obligations ordered by the  
8 court or assessed by the clerk of the district court have been  
9 paid.

10 The division provides that the following misdemeanors  
11 shall not be expunged: simple misdemeanor convictions under  
12 Code sections 123.46 (consumption or intoxication in public  
13 places) and 123.47(3) (alcohol consumption by persons under  
14 legal age) or similar local ordinances, because expungement  
15 procedures already exist for both offenses; convictions for  
16 dependent adult abuse under Code section 235B.20; convictions  
17 for operating a motor vehicle with an invalid driver's license  
18 under Code section 321.218, 321A.32, or 321J.21; convictions  
19 for operating while intoxicated under Code section 321J.2;  
20 convictions for sex offenses as defined in Code section  
21 692A.101; a conviction for involuntary manslaughter under Code  
22 section 707.5; a conviction for assault involving a dangerous  
23 weapon under Code section 708.2(3); convictions for domestic  
24 abuse assault under Code section 708.2A; convictions for  
25 harassment under Code section 708.7; a conviction for stalking  
26 under Code section 708.11; convictions for removal of an  
27 officer's communication or control device under Code section  
28 708.12; convictions for trespass under Code section 716.8(3)  
29 or (4); convictions for bestiality under Code section 717C.1;  
30 convictions under Code chapter 719 (obstructing justice);  
31 convictions under Code chapter 720 (interference with judicial  
32 process); convictions under Code section 721.2 (nonfelonious  
33 conduct in office); convictions under Code section 721.10  
34 (misuse of public records and files); convictions under Code  
35 section 723.1 (riot); convictions under Code chapter 724

1 (weapons); convictions under Code chapter 726 (protections  
2 of the family and dependent persons); convictions under Code  
3 chapter 728 (obscenity); convictions under Code chapter 901A  
4 (sexually predatory offenses); a conviction for a comparable  
5 offense listed in 49 C.F.R. §383.51(b) (table 1) or 49 C.F.R.  
6 §383.51(e) (table 4) (commercial driver's licenses); and any  
7 conviction under prior law of an offense comparable to an  
8 offense enumerated in the bill. In addition, the bill does not  
9 apply to a defendant who is the subject of a protective order  
10 or a no-contact order; a defendant who has been subsequently  
11 convicted of or granted a deferred judgment for any criminal  
12 offense, other than a simple misdemeanor conviction under Code  
13 chapter 321 or of a similar local ordinance; or a defendant who  
14 has previously been granted two deferred judgments.

15 The division prohibits a person from applying more than  
16 once for an expungement of the person's record. A person  
17 shall be granted an expungement of a record only one time  
18 in the person's lifetime. However, the one application may  
19 request the expungement of records relating to more than one  
20 misdemeanor offense if the misdemeanor offenses arose from the  
21 same transaction or occurrence, and the application contains  
22 the misdemeanor offenses to be expunged.

23 The division provides that the expunged record under the  
24 bill is a confidential record exempt from public access under  
25 Code section 22.7 but shall be made available by the clerk of  
26 the district court upon court order.

27 The division also provides that after receipt of notice from  
28 the clerk of the district court that a record of conviction has  
29 been expunged, the record of conviction shall be removed from  
30 the criminal history data files maintained by the department of  
31 public safety if such a record was maintained in the criminal  
32 history data files.

33 The division provides that the supreme court may prescribe  
34 rules governing expungement procedures applicable to criminal  
35 cases pursuant to the division.

1 The division applies to misdemeanor convictions that occur  
2 prior to, on, or after July 1, 2019.

3 DIVISION II — ROBBERY. This division provides that a  
4 person serving a sentence for a conviction for robbery in the  
5 first degree for a conviction that occurs on or after July  
6 1, 2018, shall serve between 50 and 70 percent of a 25-year  
7 class "B" felony sentence prior to being eligible for parole  
8 or work release. In determining when the person is first  
9 eligible for parole or work release within such parameters,  
10 the sentencing court shall base its determination upon all  
11 pertinent information including the person's criminal record, a  
12 validated risk assessment, and the negative impact the offense  
13 has had on the victim or other persons.

14 The division does not modify the earned time provisions  
15 related to the commission of robbery in the first degree, as a  
16 person who commits robbery in the first degree is eligible for  
17 a reduction of sentence equal to fifteen eighty-fifths of a day  
18 for each day of good conduct by the person under Code section  
19 903A.2.

20 Under current law and the division, felonious robbery is  
21 also classified as a "forcible felony" under Code section  
22 702.11, and a person convicted of felonious robbery is  
23 prohibited from receiving a suspended or deferred sentence or  
24 deferred judgment pursuant to Code section 907.3.

25 The division repeals the offense of robbery in the third  
26 degree, an aggravated misdemeanor. A person commits robbery  
27 in the third degree when, while perpetrating a robbery, the  
28 person commits a simple misdemeanor assault in violation of  
29 Code section 708.2(6).

30 DIVISION III — PROPERTY CRIMES — VALUE. This division  
31 increases the value of damaged or stolen property or services  
32 necessary to commit certain levels of numerous criminal  
33 offenses.

34 THEFT. The division increases the value of property  
35 necessary for a person to commit theft in the second degree

1 from property exceeding \$1,000 but not more than \$10,000 to  
2 property exceeding \$1,500 but not more than \$10,000. Theft in  
3 the second degree is a class "D" felony.

4 The division increases the value of property necessary for  
5 a person to commit theft in the third degree from property  
6 exceeding \$500 but not more than \$1,000 to property exceeding  
7 \$750 but not more than \$1,500. Theft in the third degree is an  
8 aggravated misdemeanor.

9 The division increases the value of property necessary for  
10 a person to commit theft in the fourth degree from property  
11 exceeding \$200 but not more than \$500 to property exceeding  
12 \$300 but not more than \$750. Theft in the fourth degree is a  
13 serious misdemeanor.

14 The division increases the value of property necessary for a  
15 person to commit theft in the fifth degree from property not  
16 exceeding \$200 to property not exceeding \$300. Theft in the  
17 fifth degree is a simple misdemeanor.

18 AGGRAVATED THEFT. The division increases the value of  
19 property necessary for a person to commit aggravated theft from  
20 property not exceeding \$200 to property not exceeding \$300.  
21 Aggravated theft is an aggravated misdemeanor or a class "D"  
22 felony depending upon the circumstances of the crime. Under  
23 current law, a person commits aggravated theft when the person  
24 commits a simple assault after the person has removed or  
25 attempted to remove property not exceeding \$200.

26 THEFT DETECTION DEVICES — SHIELD OR REMOVAL. The division  
27 increases the value of property necessary for a person to  
28 commit a serious misdemeanor for removal of a theft detection  
29 device from property exceeding \$200 in value to property  
30 exceeding \$300 in value. The division increases the value of  
31 property necessary for a person to commit a simple misdemeanor  
32 for removal of a theft detection device from property not  
33 exceeding \$200 in value to property not exceeding \$300 in  
34 value.

35 FRAUDULENT PRACTICE. Fraudulent practice is defined in Code

1 section 714.8. The division increases the value of property or  
2 services necessary for a person to commit fraudulent practice  
3 in the second degree from property or services exceeding \$1,000  
4 but not more than \$10,000 to property exceeding \$1,500 but not  
5 more than \$10,000. Fraudulent practice in the second degree  
6 is a class "D" felony.

7 The division increases the value of property or services  
8 necessary for a person to commit fraudulent practice in the  
9 third degree from property or services exceeding \$500 but not  
10 more than \$1,000 to property or services exceeding \$750 but not  
11 more than \$1,500. Fraudulent practice in the third degree is  
12 an aggravated misdemeanor.

13 The division increases the value of property or services  
14 necessary for a person to commit fraudulent practice in the  
15 fourth degree from property or services exceeding \$200 but not  
16 more than \$500 to property or services exceeding \$300 but not  
17 more than \$750. Fraudulent practice in the fourth degree is  
18 a serious misdemeanor.

19 The division increases the value of property or services  
20 necessary for a person to commit fraudulent practice in the  
21 fifth degree from property or services not exceeding \$200 to  
22 property or services not exceeding \$300. Fraudulent practice  
23 in the fifth degree is a simple misdemeanor.

24 CREDIT CARDS. Under current law, a person commits the class  
25 "D" felony offense of credit card fraud when a person illegally  
26 secures or seeks to secure property or services by means of  
27 a credit card and the value of the property or services is  
28 greater than \$1,000 but not more than \$10,000. The division  
29 increases the minimum value of property or services necessary  
30 for a person to commit such a class "D" felony offense from  
31 \$1,000 to \$1,500.

32 Under current law, a person commits the aggravated  
33 misdemeanor offense of credit card fraud when a person  
34 illegally secures or seeks to secure property or services  
35 by means of a credit card and the value of the property or



1 services is \$1,000 or less. The division increases the maximum  
2 value of property or services necessary for a person to commit  
3 such an aggravated misdemeanor offense from \$1,000 to \$1,500.

4 IDENTITY THEFT. Under current law, a person commits  
5 the class "D" felony offense of identity theft when a  
6 person fraudulently uses or fraudulently attempts to use  
7 identification information of another person, with the intent  
8 to obtain credit, property, services, or other benefit, and  
9 the value of the credit, property, services, or other benefit  
10 exceeds \$1,000 but does not exceed \$10,000. The division  
11 increases the minimum value necessary for a person to commit  
12 such a class "D" felony offense from \$1,000 to \$1,500.

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

22 CRIMINAL MISCHIEF. The division increases the value of  
23 damaged property that is necessary to commit criminal mischief  
24 in the second degree from damaged property exceeding \$1,000 but  
25 not more than \$10,000 to damaged property exceeding \$1,500 but  
26 not more than \$10,000. Criminal mischief in the second degree  
27 is a class "D" felony.

28 The division increases the value of damaged property  
29 that is necessary to commit criminal mischief in the third  
30 degree from damaged property exceeding \$500 but not more than  
31 \$1,000 to damaged property exceeding \$750 but not more than  
32 \$1,500. Criminal mischief in the third degree is an aggravated  
33 misdemeanor.

34 The division increases the value of damaged property  
35 that is necessary to commit criminal mischief in the fourth

1 degree from damaged property exceeding \$200 but not more than  
2 \$500 to damaged property exceeding \$300 but not more than  
3 \$750. Criminal mischief in the fourth degree is a serious  
4 misdemeanor.

5 The division increases the value of damaged property that  
6 is necessary to commit criminal mischief in the fifth degree  
7 from damaged property not exceeding \$200 to damaged property  
8 not exceeding \$300. Criminal mischief in the fifth degree is a  
9 simple misdemeanor.

10 TRESPASS. The division increases the value of damaged  
11 property that is necessary to commit a serious misdemeanor  
12 trespass offense from damaged property of more than \$200 to  
13 damaged property of more than \$300.

14 The division increases the value of damaged property that is  
15 necessary to commit an aggravated misdemeanor trespass offense  
16 involving a hate crime from damaged property of more than \$200  
17 to damaged property of more than \$300.

18 RAILROAD VANDALISM. The division increases the value of  
19 damaged property that is necessary to commit railroad vandalism  
20 in the fourth degree from damaged property exceeding \$1,000 but  
21 not more than \$10,000 to damaged property exceeding \$1,500 but  
22 not more than \$10,000. Railroad vandalism in the fourth degree  
23 is a class "D" felony.

24 The division increases the value of damaged property that  
25 is necessary to commit railroad vandalism in the fifth degree  
26 from damaged property exceeding \$500 but not more than \$1,000  
27 to damaged property exceeding \$750 but not more than \$1,500.  
28 Railroad vandalism in the fifth degree is an aggravated  
29 misdemeanor.

30 The division increases the value of damaged property  
31 that is necessary to commit railroad vandalism in the sixth  
32 degree from damaged property exceeding \$200 but not more than  
33 \$500 to damaged property exceeding \$300 but not more than  
34 \$750. Railroad vandalism in the sixth degree is a serious  
35 misdemeanor.

1 The division increases the value of damaged property that is  
2 necessary to commit railroad vandalism in the seventh degree  
3 from damaged property not exceeding \$200 to damaged property  
4 not exceeding \$300. Railroad vandalism in the seventh degree  
5 is a simple misdemeanor.

6 TRANSMISSION OF UNSOLICITED BULK ELECTRONIC MAIL (EMAIL).  
7 Under current law, a person commits the class "D" felony  
8 offense of transmission of unsolicited bulk email when the  
9 revenue generated from such a transmissions exceeds \$1,000.  
10 The division increases the minimum value necessary for a  
11 person to commit such a class "D" felony offense from \$1,000  
12 to \$1,500.

13 DIVISION IV — THEFT, FRAUD, AND FORGERY REVISIONS.

14 THEFT OFFENSES — CONSOLIDATION. This division creates new  
15 Code section 714.2A relating to the consolidation of theft  
16 offenses. The division provides that for purposes of charging  
17 a person with theft, any conduct specified as theft in Code  
18 section 714.1(1) through (10), constitutes a single offense  
19 of theft embracing the separated offenses of theft known as  
20 taking, misappropriation, theft by deception, possession or  
21 receipt of stolen property, fraudulent conversion, check fraud,  
22 theft from a public utility, unlawful access to a computer,  
23 theft of video rental property, and other similar offenses  
24 related to theft. An accusation of theft may be supported by  
25 evidence that it was committed in any manner that would be  
26 theft under Code section 714.1(1) through (10), notwithstanding  
27 the specification of a different manner of theft in the  
28 complaint, indictment, or information, subject only to the  
29 power of the court to ensure a fair trial by granting a  
30 continuance or other appropriate relief where the conduct of  
31 the defense would be prejudiced by lack of fair notice or  
32 surprise.

33 DEFINITION OF FORGERY. The division amends Code section  
34 715A.2(2) relating to forgery. Under the division, a person  
35 commits forgery when the person possesses a writing that is or

1 purports to be a driver's license, nonoperator's identification  
2 card, birth certificate, or occupational license or certificate  
3 in support of an occupational license issued by a department,  
4 agency, board, or commission in this state. A person who  
5 forges such a document commits a class "D" felony. By amending  
6 the definition of forgery, the division also changes the  
7 circumstances under which an employer is subject to a civil  
8 penalty for hiring a person who commits such a forgery,  
9 pursuant to Code section 715A.2A (accommodation of forgery).

10 STATUTE OF LIMITATIONS — FRAUD OR BREACH OF FIDUCIARY  
11 OBLIGATION. The division amends Code section 802.5 relating  
12 to extending the periods of time a prosecution may be brought  
13 against a person for any offense involving a material element  
14 of fraud or a breach of fiduciary obligation. Under current  
15 law, a prosecution may be brought within one year after  
16 discovery of the offense by an aggrieved party or by a person  
17 who has a legal duty to represent an aggrieved party and who is  
18 not a party to the offense. The division specifies that such a  
19 prosecution may be brought within five years.

20 DIVISION V — CRIMINAL PROCEEDINGS.

21 DEFENDANT RIGHT TO APPEAL. This division amends Code  
22 section 814.6(1) by prohibiting the right to appeal to a  
23 defendant who has pled guilty to a criminal offense except  
24 this prohibition does not apply to a defendant who pleads  
25 guilty to a class "A" felony. The right to appeal means that  
26 an appellate court cannot deny a defendant's statutory or  
27 constitutional right to have the defendant's case reviewed on  
28 appeal.

29 The division amends Code section 814.6(2) by specifying that  
30 discretionary review by an appellate court applies to an order  
31 denying a motion in arrest of judgment on grounds other than an  
32 ineffective assistance claim. Under current law, discretionary  
33 review applies to an order suppressing or admitting evidence,  
34 an order granting or denying a motion for a change of venue,  
35 an order denying probation, simple misdemeanor and ordinance

1 violations, and an order raising a question of law important to  
2 the judiciary and the profession. Discretionary review is the  
3 process by which an appellate court may exercise its discretion  
4 to review specified matters not subject to appeal as a matter  
5 of right.

6 PRO SE FILINGS BY DEFENDANT CURRENTLY REPRESENTED BY  
7 COUNSEL. The division creates new Code section 814.6A relating  
8 to pro se filings by defendants currently represented by  
9 counsel. The bill provides that a defendant who is currently  
10 represented by counsel shall not file any pro se document  
11 in any Iowa appellate court. The appellate court shall not  
12 consider, and opposing counsel shall not respond to, such pro  
13 se filings. The division does not prohibit a defendant from  
14 proceeding without the assistance of counsel. A defendant  
15 currently represented by counsel may file a pro se motion  
16 seeking disqualification of the counsel, which a court may  
17 grant upon a showing of good cause.

18 INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS ON APPEAL. The  
19 division amends Code section 814.7 relating to an ineffective  
20 assistance claim on appeal in a criminal case. The division  
21 prohibits an ineffective assistance claim being raised and  
22 decided on direct appeal from the criminal proceedings. Under  
23 current law, such a claim may be raised on direct appeal from  
24 the criminal proceedings if the record at the trial level is  
25 sufficient. Generally, an ineffective assistance of counsel  
26 claim is raised on appeal by a criminal defendant alleging  
27 the defendant's attorney was so incompetent it deprived the  
28 defendant the constitutional right to assistance of counsel.

29 APPEALS FROM THE DISTRICT COURT — GENERAL VERDICT.  
30 The division creates new Code section 814.28 relating to  
31 general verdicts. When the prosecution relies on multiple  
32 or alternative theories to prove the commission of a public  
33 offense, a jury may return a general verdict. If the jury  
34 returns a general verdict, the division specifies that a court  
35 shall not set aside or reverse such a verdict on the basis

1 of a defective or insufficient theory if one or more of the  
2 theories presented and described in the complaint, information,  
3 indictment, or jury instruction is sufficient to sustain the  
4 verdict on at least one count.

5 GUILTY PLEAS — CHALLENGES. If a defendant challenges a  
6 guilty plea based on an alleged defect in the plea proceedings,  
7 the division provides that the plea shall not be vacated unless  
8 the defendant demonstrates it is more likely than not that the  
9 defendant would not have pled guilty if the defect had not  
10 occurred. The burden applies whether the challenge is made  
11 by motion in arrest of judgment or in a challenge on appeal.  
12 Any provision in the Iowa rules of criminal procedure that are  
13 inconsistent with this provision shall have no legal effect.

14 POSTCONVICTION RELIEF. The division provides that an  
15 ineffective assistance of counsel claim contained in an  
16 application seeking postconviction relief is not a ground  
17 of fact or law that could not have been raised within the  
18 applicable time period for purposes of determining if an  
19 application is timely filed.

20 The division provides that an applicant seeking  
21 postconviction relief who is currently represented by counsel  
22 shall not file any pro se document in any Iowa district or  
23 appellate court. The district or appellate court shall not  
24 consider, and opposing counsel shall not respond to, such  
25 pro se filings. The bill does not prohibit an applicant for  
26 postconviction relief from proceeding without the assistance of  
27 counsel. A represented applicant for postconviction relief may  
28 file a pro se motion seeking disqualification of counsel, which  
29 a court may grant upon a showing of good cause.

30 The division strikes a provision that requires the  
31 respondent to an application for postconviction relief, to file  
32 an answer to the application with relevant portions of the  
33 record of the proceedings being challenged, if the applicant  
34 fails to file the application without the record of the  
35 proceedings being challenged.

1 PRESENTENCE DETERMINATIONS AND STATEMENTS. The division  
2 creates new Code section 901.4B relating to presentence  
3 determinations and statements. At sentencing, the court shall  
4 verify that the defendant and the defendant's attorney have  
5 read and discussed the presentence investigation report and any  
6 addendum to the report. Before imposing sentence, the court  
7 shall provide the defendant's attorney an opportunity to speak  
8 on the defendant's behalf, address the defendant personally in  
9 order to permit the defendant to make a statement or present  
10 any information to mitigate the sentence, and provide the  
11 prosecuting attorney an opportunity to speak.

12 After hearing any statements presented by the above, and  
13 before imposing sentence, the court is required to address any  
14 victim of the crime who is present at sentencing and permit  
15 any victim to be reasonably heard, including but not limited  
16 to by presenting a victim impact statement in the manner  
17 described in Code section 915.21. "Victim" means a person who  
18 has suffered physical, emotional, or financial harm as the  
19 result of a public offense or a delinquent act, other than  
20 a simple misdemeanor, committed in this state, or members of  
21 the victim's family, and also includes the family members of  
22 a victim who died or was rendered incompetent as a result of  
23 the offense or who was under 18 years of age at the time of the  
24 offense.

25 DIVISION VI — ARSON.

26 PAROLE OR WORK RELEASE ELIGIBILITY DETERMINATION —  
27 CERTAIN DRUG, CHILD ENDANGERMENT, AND ROBBERY OFFENSES. This  
28 division amends Code section 901.11 by providing that at the  
29 time of sentencing, the court shall determine when a person  
30 convicted of arson in the first degree as described in Code  
31 section 902.12(4) shall first become eligible for parole or  
32 work release within the parameters specified in Code section  
33 902.12(3) based upon all pertinent information including the  
34 person's criminal record, a validated risk assessment, and the  
35 negative impact the offense has had on the victim or other

1 persons.

2       MINIMUM SENTENCE FOR CERTAIN FELONIES — ELIGIBILITY FOR  
3 PAROLE OR WORK RELEASE. The division amends Code section  
4 902.12 by providing that a person serving a sentence for a  
5 conviction for arson in the first degree in violation of Code  
6 section 712.2 that occurs on or after July 1, 2019, shall  
7 be denied parole or work release until the person has served  
8 between one-half and seven-tenths of the maximum term of the  
9 person's sentence as determined under Code section 901.11(4).

10       DIVISION VII — LIMITATION OF CRIMINAL ACTIONS.

11       SEXUAL ABUSE — FIRST, SECOND, OR THIRD DEGREE. This  
12 division amends Code section 802.2 to provide that an  
13 information or indictment for sexual abuse in the first,  
14 second, or third degree committed on or with a person who is  
15 under the age of 18 years shall be found within 15 years of the  
16 offense.

17       INCEST — SEXUAL EXPLOITATION BY A COUNSELOR, THERAPIST, OR  
18 SCHOOL EMPLOYEE. The division amends Code section 802.2A to  
19 provide that an information or indictment for incest under Code  
20 section 726.2 committed on or with a person who is under the  
21 age of 18 shall be found within 15 years after the commission  
22 of the offense, and an indictment or information for sexual  
23 exploitation by a counselor, therapist, or school employee  
24 under Code section 709.15 committed on or with a person who  
25 is under the age of 18 shall be found within 15 years after  
26 the commission of the offense. An information or indictment  
27 for any other sexual exploitation shall be found within 10  
28 years of the date the victim was last treated by the counselor  
29 or therapist, or within 10 years of the date the victim was  
30 enrolled in or attended the school.

31       DIVISION VIII — STATE AND COUNTY MEDICAL EXAMINER DEATH  
32 REPORTS AND INVESTIGATIONS. Currently, the report of an  
33 investigation by the state medical examiner or county medical  
34 examiner and the record and report of an autopsy shall be  
35 received as evidence in court or other proceedings, except that



1 statements by witnesses or other persons and conclusions on  
2 extraneous matters included in the report are inadmissible.  
3 This division provides that the report of an investigation made  
4 by the state medical examiner or county medical examiner shall  
5 be admissible in court including any findings of the state  
6 medical examiner or county medical examiner and any information  
7 provided by a county attorney or law enforcement agency, if  
8 the information is otherwise admissible under the Iowa rules  
9 of evidence.

10 The division provides that in formulating findings and  
11 conclusions regarding the cause or manner of death, the state  
12 medical examiner or county medical examiner shall be allowed  
13 to rely upon and include in the report of an investigation any  
14 information provided to the medical examiner by an attorney,  
15 law enforcement agency, witness, or any person with relevant  
16 information.

17 Additionally, in conducting an investigation or autopsy,  
18 including but not limited to developing a clinical history  
19 of the decedent and formulating findings and conclusions or  
20 forming opinions as to the cause and manner of death, the  
21 state medical examiner or county medical examiner may use any  
22 information provided or available for review, including but not  
23 limited to information or statements by a witness, a suspect,  
24 or any other person with information which is provided by or  
25 obtained in the course of a law enforcement investigation.  
26 Information or statements used by the medical examiner in  
27 making the findings, conclusions, and opinions may be included  
28 in the report of the medical examiner. A court shall not  
29 exclude the report or opinion on the basis that the medical  
30 examiner relied on information from other persons or from a  
31 law enforcement agency in forming that report or opinion.  
32 Admission of such a report or opinion shall not constitute  
33 reversible error.