

Senate File 2328 - Introduced

SENATE FILE 2328
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2226)

A BILL FOR

1 An Act relating to criminal law including the disclosure of
2 a defendant's privileged records in a criminal action,
3 permanent no-contact orders, penalties for domestic abuse
4 assault, limitations on criminal actions involving certain
5 sexual offenses, criminal sentencing and corrections, parole
6 and work release, crime victim rights, discovery in criminal
7 actions, postconviction relief procedure, and certain
8 reporting requirements, and making penalties applicable.
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

COMMUNICATIONS IN PROFESSIONAL CONFIDENCE — CRIMINAL ACTIONS

Section 1. Section 622.10, subsection 4, paragraph a, subparagraph (2), Code 2022, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (e) For purposes of this subsection, "*exculpatory information*" means only information that tends to negate the guilt of the defendant, and not information that is merely impeaching or is substantially cumulative in nature.

DIVISION II

PERMANENT NO-CONTACT ORDERS — MODIFICATION — REINSTATEMENT —
CONVERSION — APPELLATE REVIEW

Sec. 2. Section 664A.5, Code 2022, is amended by striking the section and inserting in lieu thereof the following:

664A.5 Modification — entry of permanent no-contact order.

1. If a defendant is convicted of, receives a deferred judgment for, or pleads guilty to a public offense referred to in section 664A.2, subsection 1, or is held in contempt for a violation of a no-contact order issued under section 664A.3 or for a violation of a protective order issued pursuant to chapter 232, 235F, 236, 236A, 598, or 915, the court shall enter a permanent no-contact order which shall remain in effect until modified or dissolved under this section.

2. A permanent no-contact order entered under this section may be modified or dissolved upon application by the victim to the district court subject to all of the following:

a. The application may be filed by the victim, a victim counselor as defined in section 915.20A, the victim's attorney, or the prosecuting attorney.

b. The prosecuting attorney shall be notified of the application if filed by the victim.

c. The prosecuting attorney shall be given the opportunity to be heard at a hearing prior to the modification or dissolution of the no-contact order.

1 *d.* If a hearing is held, the court shall do all of the
2 following:

3 (1) The victim may appear electronically, in person,
4 or in writing, or through a victim counselor as defined in
5 section 915.20A, through the victim's attorney, or through the
6 prosecuting attorney.

7 (2) The victim shall not be subject to cross-examination
8 by the defendant, but may be questioned by the prosecuting
9 attorney under such conditions as the court may impose.

10 (3) The defendant shall not have the right to appear in
11 person, but the defendant may be compelled to appear by the
12 court.

13 3. A permanent no-contact order entered under this section
14 may be modified or dissolved upon application by the defendant
15 to the district court subject to all of the following:

16 *a.* The application must be verified.

17 *b.* The application must be served upon the prosecuting
18 attorney for the county in which the defendant principally
19 resides.

20 *c.* The application must be served upon the prosecuting
21 attorney for any county in which the defendant has been
22 convicted of an offense requiring entry of a no-contact order
23 under this chapter.

24 *d.* Prior to disposition of an application under this
25 subsection, the prosecuting attorney must notify the victim,
26 if the victim's address is known, and afford the victim the
27 opportunity to be heard.

28 *e.* Five or more years have passed since the discharge of
29 the sentence for the offense resulting in the issuance of the
30 no-contact order, including any special sentence imposed under
31 chapter 903B.

32 *f.* The defendant is not incarcerated for any offense at the
33 time the application is filed.

34 *g.* The defendant has not been convicted of any new
35 indictable offense since the imposition of the permanent

1 no-contact order.

2 4. Upon consideration of an application by the defendant to
3 modify or dissolve a permanent no-contact order, the district
4 court shall conduct an electronic or in-person hearing on the
5 application and do all of the following:

6 a. Consider any evidence offered by the parties, subject to
7 limitations under this section and any additional limitations
8 the court may impose.

9 b. Provide the victim an opportunity to be heard in any of
10 the following manners:

11 (1) Electronically, in person, or in writing.

12 (2) Personally, through a victim counselor as defined in
13 section 915.20A, through the victim's attorney, or through the
14 prosecuting attorney.

15 c. Prohibit the cross-examination of the victim by the
16 defendant, but allow the prosecuting attorney to question the
17 victim under such conditions as the court may impose.

18 5. The district court shall not modify or dissolve a
19 permanent no-contact order unless the district court makes a
20 written finding that the defendant no longer presents a danger
21 to the victim and that the modification or dissolution is in
22 the interest of justice.

23 **Sec. 3. NEW SECTION. 664A.5A Reinstatement of expired**
24 **no-contact orders.**

25 1. Upon the filing of an application by the victim, a victim
26 counselor as defined in section 915.20A, the victim's attorney,
27 or the prosecuting attorney, the court shall reinstate any
28 permanent no-contact order that expired because it was not
29 extended pursuant to section 664A.8, Code 2022.

30 2. A no-contact order issued prior to July 1, 2022, that
31 is reinstated pursuant to this section shall be governed by
32 section 664A.5.

33 3. An application to reinstate an expired no-contact
34 order shall create a rebuttable presumption that the
35 offender continues to present a danger to the victim and that

1 reinstating an expired no-contact order is in the interest of
2 justice. The application shall not require a statement that
3 the offender committed a recent overt act.

4 4. The court shall only deny an application to reinstate an
5 expired no-contact order if the court makes written findings
6 that the defendant no longer presents a danger to the victim
7 and that denying the request is in the interest of justice.

8 Sec. 4. NEW SECTION. **664A.5B Conversion of existing**
9 **no-contact orders.**

10 1. A five-year no-contact order entered prior to July 1,
11 2022, that has not expired as of July 1, 2022, may be converted
12 into a permanent no-contact order as if the order was entered
13 after July 1, 2022, upon application by the victim, a victim
14 counselor as defined in section 915.20A, the victim's attorney,
15 or the prosecuting attorney.

16 2. An application to convert a five-year no-contact order
17 into a permanent no-contact order shall create a rebuttable
18 presumption that the offender continues to present a danger
19 to the victim and that converting the no-contact order is in
20 the interest of justice. The application shall not require a
21 statement that the offender committed a recent overt act.

22 3. The court shall only deny an application to convert a
23 five-year no-contact order into a permanent no-contact order if
24 the court makes written findings that the defendant no longer
25 presents a danger to the victim and that denying the request
26 is in the interest of justice.

27 Sec. 5. NEW SECTION. **664A.7A Appellate review.**

28 1. The provisions of this chapter are the only means by
29 which a party may seek to modify a no-contact order, including
30 any challenge to the conversion of a five-year no-contact order
31 into a permanent no-contact order.

32 2. Appellate review of court order granting or denying a
33 modification or dissolution of a no-contact order, including
34 proceedings related to conversion of a five-year no-contact
35 order, shall be by writ of certiorari. Such an order is not

1 appealable as a matter of right.

2 Sec. 6. Section 708.2A, subsection 8, Code 2022, is amended
3 to read as follows:

4 8. If a person is convicted for, receives a deferred
5 judgment for, or pleads guilty to a violation of [this section](#),
6 the court shall modify the no-contact order issued upon initial
7 appearance and enter a permanent no-contact order in the manner
8 provided in [section 664A.5](#), regardless of whether the person
9 is placed on probation.

10 Sec. 7. LEGISLATIVE FINDINGS — REINSTATEMENT OF EXPIRED
11 NO-CONTACT ORDERS. The general assembly finds and declares all
12 of the following:

13 1. The procedure required to extend no-contact orders
14 issued pursuant to chapter 664A prior to July 1, 2022, imposed
15 unreasonable barriers for crime victims to ensure no-contact
16 orders remained in place.

17 2. It is against the public policy of this state to deny a
18 crime victim the protection of a no-contact order because the
19 victim was unaware of the deadline to extend a no-contact order
20 or was unable to navigate the complexities of the court system.

21 3. The law of this state in existence prior to July 1, 2022,
22 does not provide an adequate remedy to safeguard crime victims
23 from offenders who continue to present a danger to the victim
24 after a no-contact order has expired.

25 4. A crime victim previously protected by an expired
26 no-contact order should not have to wait for the offender to
27 commit additional criminal acts to remain protected.

28 5. Reinstating expired no-contact orders pursuant to
29 section 664A.5A, as enacted in this division of this Act,
30 furthers the interest of justice and serves the compelling
31 government interest of protecting crime victims from further
32 harm by offenders whose guilt has already been adjudicated.

33 6. Reinstating expired no-contact orders pursuant to
34 section 664A.5A, as enacted in this division of this Act,
35 does not impose a new punishment on the offender, but instead

1 provides collateral relief and protection for the victim
2 without requiring the victim to bear the cost of a separate
3 court action.

4 Sec. 8. REPEAL. Section 664A.8, Code 2022, is repealed.

5 DIVISION III

6 DOMESTIC ABUSE ASSAULT PENALTIES

7 Sec. 9. Section 708.2A, subsection 6, paragraph a, Code
8 2022, is amended by striking the paragraph.

9 DIVISION IV

10 LIMITATION OF CRIMINAL ACTIONS INVOLVING CERTAIN SEXUAL
11 OFFENSES

12 Sec. 10. Section 802.2B, Code 2022, is amended by adding the
13 following new subsections:

14 NEW SUBSECTION. 5A. Continuous sexual abuse of a child in
15 violation of section 709.23.

16 NEW SUBSECTION. 5B. Kidnapping in the first degree when the
17 person kidnapped, and as a consequence of the kidnapping, is
18 intentionally subjected to sexual abuse in violation of section
19 710.2.

20 NEW SUBSECTION. 5C. Burglary in the first degree in
21 violation of section 713.3, subsection 1, paragraph "d".

22 Sec. 11. Section 802.2C, Code 2022, is amended to read as
23 follows:

24 **802.2C Kidnapping.**

25 An information or indictment for kidnapping in the first,
26 second, or third degree, except as provided in section 802.2B,
27 committed on or with a person who is under the age of eighteen
28 years shall be found within ten years after the person upon
29 whom the offense is committed attains eighteen years of age,
30 or if the person against whom the information or indictment
31 is sought is identified through the use of a DNA profile, an
32 information or indictment shall be found within three years
33 from the date the person is identified by the person's DNA
34 profile, whichever is later.

35 DIVISION V

CRIMINAL SENTENCING AND CORRECTIONS

1
2 Sec. 12. Section 901.4B, subsection 2, Code 2022, is amended
3 to read as follows:

4 2. After hearing any statements presented pursuant to
5 subsection 1, and before imposing sentence, the court shall
6 address any victim of the crime who is physically present at
7 the sentencing and shall allow do all of the following:

8 a. Ask any victim or representative of the victim whether
9 the victim has been informed by the prosecuting attorney or the
10 prosecuting attorney's designee of the status of the case and
11 of the prosecuting attorney's recommendation for sentencing.

12 b. Allow any victim to be reasonably heard, including but
13 not limited to by presenting a victim impact statement in the
14 manner described in [section 915.21](#).

15 Sec. 13. Section 901.8, Code 2022, is amended to read as
16 follows:

17 **901.8 Consecutive sentences.**

18 1. If a person is sentenced for two or more separate
19 offenses, the sentencing judge may order the second or further
20 sentence to begin at the expiration of the first or succeeding
21 sentence.

22 2. If a person is sentenced for escape under [section 719.4](#)
23 or for a crime committed while confined in a detention facility
24 or penal institution, the sentencing judge shall order the
25 sentence to begin at the expiration of any existing sentence.
26 If the person is presently in the custody of the director
27 of the Iowa department of corrections, the sentence shall be
28 served at the facility or institution in which the person
29 is already confined unless the person is transferred by the
30 director.

31 3. If a person is sentenced for two or more separate
32 offenses contained in [section 902.12](#), subsection 1, and one or
33 more of the convictions is for an offense under [chapter 709](#)
34 or [chapter 710](#), the sentencing judge shall require that the
35 sentences be served consecutively.

1 4. Except as otherwise provided in [section 903A.7](#), if
2 consecutive sentences are specified in the order of commitment,
3 the several terms shall be construed as one continuous term of
4 imprisonment.

5 Sec. 14. Section 901.11, subsections 2, 3, 4, and 5, Code
6 2022, are amended to read as follows:

7 2. At the time of sentencing, the court shall determine
8 when a person convicted of child endangerment as described in
9 [section 902.12, subsection 2 3](#), shall first become eligible
10 for parole or work release within the parameters specified
11 in [section 902.12, subsection 2 3](#), based upon all pertinent
12 information including the person's criminal record, a validated
13 risk assessment, and whether the offense involved multiple
14 intentional acts or a series of intentional acts, or whether
15 the offense involved torture or cruelty.

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

24 4. At the time of sentencing, the court shall determine when
25 a person convicted of robbery in the second degree as described
26 in [section 902.12, subsection 4 5](#), shall first become eligible
27 for parole or work release within the parameters specified
28 in [section 902.12, subsection 4 5](#), based upon all pertinent
29 information including the person's criminal record, a validated
30 risk assessment, and the negative impact the offense has had
31 on the victim or other persons.

32 5. At the time of sentencing, the court shall determine when
33 a person convicted of arson in the first degree as described
34 in [section 902.12, subsection 5 6](#), shall first become eligible
35 for parole or work release within the parameters specified

1 in section 902.12, subsection 5 6, based upon all pertinent
2 information including the person's criminal record, a validated
3 risk assessment, and the negative impact the offense has had
4 on the victim or other persons.

5 Sec. 15. NEW SECTION. 902.9A **Minimum sentence — certain**
6 **felonies.**

7 The minimum sentence for any person convicted of a felony
8 contained in section 902.12, and who did not receive a deferred
9 judgment or a deferred or suspended sentence under chapter 907,
10 shall be that prescribed by statute or, if not prescribed by
11 statute, shall be determined as follows:

12 1. A class "B" felon shall be confined for no less than one
13 year.

14 2. A class "C" felon shall be confined for no less than two
15 months.

16 3. A class "D" felon shall be confined for no less than one
17 month.

18 Sec. 16. Section 902.12, Code 2022, is amended to read as
19 follows:

20 **902.12 Minimum sentence for certain felonies and misdemeanors**
21 **— eligibility for parole or work release.**

22 1. A person serving a sentence for conviction of any of
23 the following felonies that occur on or after July 1, 2022, if
24 other than a class "A" felony, shall be denied parole or work
25 release unless the person has served at least nine-tenths of
26 the maximum term of the person's sentence:

27 a. Homicide or a related crime in violation of chapter 707.

28 b. Assault in violation of chapter 708.

29 c. Terrorism in violation of chapter 708A.

30 d. Sexual abuse in violation of chapter 709.

31 e. Kidnapping or related offenses in violation of chapter
32 710.

33 f. Human trafficking in violation of chapter 710A, except
34 for a violation of section 710A.2A.

35 g. Robbery, aggravated theft, or extortion in violation of

1 chapter 711.

2 h. Arson in violation of chapter 712.

3 i. Burglary in violation of chapter 713, except for a
4 violation of section 713.7.

5 j. Criminal gang participation or gang recruitment in
6 violation of chapter 723A.

7 k. Obscenity in violation of chapter 728.

8 ~~1.~~ 2. A person serving a sentence for conviction of any of
9 the following felonies, including a person serving a sentence
10 ~~for conviction of the following felonies~~ that occur prior to
11 July 1, ~~2003~~ 2022, shall be denied parole or work release
12 unless the person has served at least seven-tenths of the
13 maximum term of the person's sentence:

14 a. Murder in the second degree in violation of section
15 707.3.

16 b. Attempted murder in violation of [section 707.11](#), except
17 as provided in [section 707.11, subsection 5](#).

18 c. Sexual abuse in the second degree in violation of section
19 709.3.

20 d. Kidnapping in the second degree in violation of section
21 710.3.

22 e. Robbery in the second degree in violation of section
23 711.3, except as determined in [subsection 4 5](#).

24 f. Vehicular homicide in violation of [section 707.6A](#),
25 subsection 1 or 2, if the person was also convicted under
26 [section 321.261, subsection 4](#), based on the same facts or
27 event that resulted in the conviction under [section 707.6A](#),
28 subsection 1 or 2.

29 ~~2.~~ 3. A person serving a sentence for a conviction of
30 child endangerment as defined in [section 726.6, subsection](#)
31 1, paragraph "b", that is described and punishable under
32 [section 726.6, subsection 5](#), shall be denied parole or work
33 release until the person has served between three-tenths and
34 seven-tenths of the maximum term of the person's sentence as
35 determined under [section 901.11, subsection 2](#).

1 ~~3.~~ 4. A person serving a sentence for a conviction for
2 robbery in the first degree in violation of [section 711.2](#) for
3 a conviction that occurs ~~on or after July 1, 2018~~ prior to
4 July 1, 2022, shall be denied parole or work release until
5 the person has served between one-half and seven-tenths of
6 the maximum term of the person's sentence as determined under
7 section 901.11, subsection 3.

8 ~~4.~~ 5. A person serving a sentence for a conviction for
9 robbery in the second degree in violation of [section 711.3](#)
10 for a conviction that occurs ~~on or after July 1, 2016~~ prior
11 to July 1, 2022, shall be denied parole or work release until
12 the person has served between one-half and seven-tenths of
13 the maximum term of the person's sentence as determined under
14 section 901.11, subsection 4.

15 ~~5.~~ 6. A person serving a sentence for a conviction for
16 arson in the first degree in violation of [section 712.2](#) that
17 occurs ~~on or after July 1, 2019~~ prior to July 1, 2022, shall
18 be denied parole or work release until the person has served
19 between one-half and seven-tenths of the maximum term of
20 the person's sentence as determined under section 901.11,
21 subsection 5.

22 Sec. 17. NEW SECTION. **903.1A Minimum sentence — certain**
23 **misdemeanors.**

24 The minimum sentence for any person convicted of a
25 misdemeanor contained in section 902.12 and who did not receive
26 a deferred judgment or a deferred or suspended sentence under
27 chapter 907, shall be that prescribed by statute or, if not
28 prescribed by statute, shall be determined as follows:

29 1. A person convicted of an aggravated misdemeanor shall be
30 confined for no less than fourteen days.

31 2. A person convicted of a serious misdemeanor shall be
32 confined for no less than seven days.

33 3. A person convicted of a simple misdemeanor shall be
34 confined for no less than two days.

35 Sec. 18. Section 903A.2, subsection 1, paragraph c, Code

1 2022, is amended to read as follows:

2 c. Category "C" sentences are those sentences for attempted
3 murder described in section 707.11, subsection 5, and sentences
4 for the offenses described in section 902.12, subsection 1.
5 Notwithstanding ~~paragraphs~~ paragraph "a" or "b", an inmate
6 serving a category "C" sentence is ineligible for a reduction
7 of sentence under this section.

8 DIVISION VI

9 PAROLE AND WORK RELEASE

10 Sec. 19. Section 906.4, subsection 1, Code 2022, is amended
11 to read as follows:

12 1. A parole or work release shall be ordered only for
13 the best interest of society, any victim of the person, and
14 the ~~offender~~ person, not as an award of clemency. The board
15 shall release on parole or work release any person whom it
16 has the power to so release, only when in its opinion there
17 is ~~reasonable~~ a significant probability that the person can
18 be released without detriment to the community, any victim
19 of the person, or to the person. A person's release is not
20 a detriment to the community, any victim of the person,
21 or the person if the person is able and willing to fulfill
22 the obligations of a law-abiding citizen, in the board's
23 determination.

24 Sec. 20. Section 906.5, subsection 1, paragraph a, Code
25 2022, is amended to read as follows:

26 a. The board shall establish and implement a plan by which
27 the board systematically reviews the status of each person who
28 has been committed to the custody of the director of the Iowa
29 department of corrections and considers the person's prospects
30 for parole or work release. The board shall, at least annually
31 ~~shall~~ but no more frequently than every six months, review
32 the status of a person other than a class "A" felon, a class
33 "B" felon serving a sentence of more than twenty-five years,
34 ~~or~~ a felon serving an offense punishable under section 902.9,
35 subsection 1, paragraph "a", or a felon serving a mandatory

1 minimum sentence other than a class "A" felon, and provide
2 the person with notice of the board's parole or work release
3 decision.

4 Sec. 21. Section 906.5, subsection 1, Code 2022, is amended
5 by adding the following new paragraph:

6 NEW PARAGRAPH. *c.* The board shall require that all parole
7 hearings be recorded and maintained as public records under
8 chapter 22 for a minimum of three years from the date of the
9 hearing or the most recent release of an inmate on parole.

10 Sec. 22. Section 906.5, subsection 2, Code 2022, is amended
11 to read as follows:

12 2. It is the intent of the general assembly that the board
13 shall implement a plan of early release ~~in an effort to assist~~
14 ~~in controlling the prison population and assuring prison~~
15 ~~space for the confinement of offenders whose release would be~~
16 ~~detrimental to the citizens of this state~~ to ensure that parole
17 or work release is only ordered when in the best interest of
18 society, any victim of the person, and the person. The board
19 shall report to the legislative services agency on a monthly
20 basis concerning the implementation of this plan and the number
21 of inmates paroled pursuant to this plan and the average length
22 of stay of those paroled.

23 DIVISION VII

24 CRIME VICTIMS — RIGHTS

25 Sec. 23. Section 915.11, subsection 1, Code 2022, is amended
26 to read as follows:

27 1. a. A local police department or county sheriff's
28 department shall advise a victim of the right to
29 register with the county attorney, and shall provide a
30 request-for-registration form to each victim. A local police
31 department or county sheriff's department shall provide a
32 telephone number and internet site to each victim to register
33 with the automated victim notification system established
34 pursuant to [section 915.10A](#).

35 b. A local police department or county sheriff's department

1 shall provide a victim with a pamphlet explaining the victim's
2 rights as a victim of a public offense or delinquent act.

3 Sec. 24. Section 915.20, Code 2022, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 1A. A local police department or county
6 sheriff's department shall provide to the crime victim
7 assistance division of the department of justice with the
8 contact information for a victim of a public offense or
9 delinquent act. A victim counselor shall contact a victim to
10 determine whether the victim is in need of further assistance
11 from the victim counselor or whether the victim has any
12 questions regarding the person's rights as a victim.

13 Sec. 25. Section 915.38, Code 2022, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 3A. a. It is the public policy of the
16 state that statements made by children to forensic interviewers
17 at child advocacy centers and child protection centers are
18 presumptively reliable and should be admitted into evidence in
19 the courts.

20 b. Notwithstanding any other provision of law, the court
21 shall upon motion of a party admit a recorded statement of a
22 child as defined in section 702.5, if all of the following
23 apply:

24 (1) The recorded statement describes conduct that violates
25 chapter 709 or describes circumstances relevant to such
26 conduct.

27 (2) The recorded statement was obtained by a forensic
28 interviewer employed by an accredited child advocacy center or
29 child protection center.

30 (3) The interview was conducted substantially in accordance
31 with a nationally recognized protocol for interviewing
32 children.

33 (4) The recorded statement is offered in a criminal
34 proceeding, the opposing party was given at least ten days'
35 notice prior to the trial commencing of the intention to admit

1 the recorded statement, and any of the following apply:

2 (a) The child testifies at trial.

3 (b) The child has been questioned by the defendant or the
4 defendant's attorney at a deposition or at any substantially
5 similar setting.

6 (c) The child is unavailable as a witness as provided in
7 rule of evidence 5.804(a).

8 (d) The court finds by a preponderance of the evidence that
9 the child would suffer significant emotional or psychological
10 trauma from testifying in the personal presence of the
11 defendant at the time of the criminal proceeding.

12 c. A court may deny the admission of a recorded statement
13 under this section only if the party opposing the admission
14 proves by clear and convincing evidence that the recorded
15 statement is unreliable.

16 d. Portions of a recorded interview admitted pursuant to
17 this section may be redacted under the following circumstances:

18 (1) By agreement of the parties.

19 (2) By order of the court, if the court finds by a
20 preponderance of the evidence that redaction is necessary to
21 either:

22 (a) Minimize embarrassment or trauma to the child.

23 (b) Effectuate a provision of the rules of evidence other
24 than the rules against hearsay.

25 **Sec. 26. NEW SECTION. 915.44A Limitation of evidence in**
26 **sexual abuse cases.**

27 A defendant charged with a criminal offense for sexual
28 abuse under chapter 709 or who has filed an application for
29 postconviction relief upon conviction for a sexual offense
30 under chapter 709 shall be precluded from questioning any
31 victim regarding evidence which is inadmissible under rule
32 of evidence 5.412. Prohibited evidence includes all of the
33 following:

34 1. Reputation or opinion evidence of a victim offered to
35 prove that a victim engaged in other sexual behavior.

1 2. Evidence of a victim's other sexual behavior other than
2 reputation or opinion evidence.

3 Sec. 27. COMMISSION ON CONTINUING LEGAL EDUCATION —
4 CONTINUING LEGAL EDUCATION REQUIREMENTS. The commission on
5 continuing legal education shall amend Iowa court rule 42.2 to
6 require all attorneys licensed in this state complete a minimum
7 of one hour, annually, of continuing legal education that
8 focuses on crime victims and how to improve a crime victim's
9 experience within the criminal justice system.

10 DIVISION VIII

11 DISCOVERY

12 Sec. 28. NEW SECTION. 821A.1 Subpoenas in criminal actions.

13 1. A criminal defendant or counsel acting on the defendant's
14 behalf shall not issue any subpoena for documents or other
15 evidence except upon application to the court. Such an
16 application shall not be granted unless a defendant proves by a
17 preponderance of the evidence all of the following:

18 a. The evidence is material and necessary to prepare a
19 defense.

20 b. The defendant has made reasonable efforts to obtain the
21 evidence without invoking compulsory process.

22 c. The evidence is not available from any other source.

23 d. For evidence that is obtainable by the state only through
24 the execution of a search warrant, the defendant must show
25 probable cause that the information sought contains exculpatory
26 information that is not available from any other source and
27 that there is a compelling need for the evidence to enable the
28 defendant to present a defense at trial.

29 2. This section is the exclusive mechanism for a criminal
30 defendant or counsel acting on the defendant's behalf to issue
31 a subpoena for documents or other evidence.

32 3. An application made pursuant to this section shall not
33 be filed ex parte.

34 4. This section shall not apply to a subpoena issued solely
35 to secure the presence of a witness listed in the minutes of

1 testimony at deposition or to secure the presence of a witness
2 listed in either the minutes of testimony or in the defendant's
3 witness list at a hearing or trial.

4 5. The prosecuting attorney shall not be required to execute
5 or effectuate any order or subpoena issued pursuant to this
6 section.

7 6. If any documents or evidence are obtained pursuant to
8 this section, the criminal defendant or counsel acting on the
9 defendant's behalf must notify the prosecuting attorney within
10 twenty-four hours of obtaining the documents or evidence. The
11 documents or evidence received, or copies of the same, must be
12 provided to the prosecuting attorney as soon as possible.

13 7. Evidence or documents obtained by a subpoena that does
14 not comply with this section shall not be admissible in any
15 criminal action if offered by the defendant.

16 8. Any person who knowingly issues a subpoena that does not
17 comply with this section may be declared in contempt of court.

18 9. Nothing in this section shall eliminate or reduce a
19 criminal defendant's obligation to comply with section 622.10,
20 subsection 4, when seeking privileged records.

21 10. Any provision of law or rule of court promulgated by the
22 supreme court that is inconsistent with this section shall have
23 no legal effect.

24 **Sec. 29. NEW SECTION. 821A.2 Discovery depositions in**
25 **criminal actions — witness lists.**

26 1. Discovery depositions shall not be permitted in any
27 criminal action, except upon application to the court and a
28 showing of exceptional circumstances.

29 2. A criminal defendant must file a witness list when the
30 defendant requests or receives any discretionary discovery, the
31 date when any deposition is taken, or ten days before trial,
32 whichever date is earliest. If the defendant fails to timely
33 list a witness, the court shall prohibit the witness from
34 testifying at trial absent good cause shown for the defendant's
35 failure to timely list the witness.

DIVISION IX

POSTCONVICTION RELIEF AND DISCOVERY PROCEDURE

1
2
3 Sec. 30. Section 822.7, Code 2022, is amended to read as
4 follows:

5 **822.7 Court to hear application.**

6 The application shall be heard in, and before any judge
7 of the court in which the conviction or sentence took place.
8 However, if the applicant is seeking relief under section
9 822.2, subsection 1, paragraph "f", the application shall be
10 heard in, and before any judge of the court of the county
11 in which the applicant is being confined. A record of the
12 proceedings shall be made and preserved. All rules and
13 statutes applicable in civil proceedings ~~including pretrial~~
14 ~~and discovery procedures~~ are available to the parties, subject
15 to the restrictions contained in section 822.7A. The court
16 may receive proof of affidavits, depositions, oral testimony,
17 or other evidence, and may order the applicant brought before
18 it for the hearing. If the court finds in favor of the
19 applicant, it shall enter an appropriate order with respect to
20 the conviction or sentence in the former proceedings, and any
21 supplementary orders as to arraignment, retrial, custody,
22 bail, discharge, correction of sentence, or other matters that
23 may be necessary and proper. The court shall make specific
24 findings of fact, and state expressly its conclusions of law,
25 relating to each issue presented. This order is a final
26 judgment.

27 Sec. 31. NEW SECTION. **822.7A Postconviction relief —**
28 **discovery.**

29 This chapter is intended to provide a limited scope of
30 discovery that is no broader than what is afforded to a
31 defendant in a criminal action. Notwithstanding any other
32 statute, rule, or law, the following limitations on discovery
33 and procedure shall apply to a claim for postconviction relief
34 under this chapter.

35 1. An applicant may conduct discovery only by order of the

1 court to be granted upon a showing that the information sought
2 is reasonably calculated to lead to the discovery of admissible
3 evidence to support or defeat a claim that is adequately
4 pled in the application and, if taken as true, constitutes a
5 colorable claim for relief.

6 2. An applicant shall not be permitted to depose or
7 otherwise conduct discovery upon the victim, as defined in
8 section 915.10, of the underlying public offense, unless the
9 applicant proves all of the following by clear and convincing
10 evidence:

11 a. The evidence is necessary to prove the applicant
12 is innocent of the underlying public offense and all
13 lesser-included offenses.

14 b. The information is not available from any other source.

15 c. Contact with a victim is minimized by limitations on
16 the method of discovery including in camera review, remote
17 testimony, or allowing a victim to provide a written statement
18 in lieu of testimony.

19 3. The attorney-client privilege contained in section
20 622.10 shall be absolute, except that the filing of an
21 application shall waive any privilege an applicant may claim
22 regarding an attorney who represented the applicant in the
23 underlying criminal action or any previous postconviction
24 action.

25 4. Evidence that would be excluded in a criminal action
26 pursuant to rule of evidence 5.412 shall not be discoverable or
27 admissible in a postconviction action.

28 5. The state shall not be required to produce copies of
29 discovery that was previously disclosed to an applicant in the
30 underlying criminal action or a previous postconviction relief
31 action or which the applicant was in possession of in the
32 underlying criminal action or a previous postconviction action.

33 6. The state shall not be required to produce any discovery
34 contained in a court file accessible to the applicant.

35 7. The state shall not be required to produce any discovery

1 that cannot be lawfully disseminated or that is otherwise
2 confidential by law.

3 8. An applicant shall not be permitted to conduct discovery
4 or seek the appointment of an expert witness through ex parte
5 communication or in camera review.

6 DIVISION X

7 REQUIRED REPORTS TO THE GENERAL ASSEMBLY

8 Sec. 32. NEW SECTION. 602.6204 Reporting requirement.

9 Each district judge shall submit to the governor and to the
10 general assembly, not later than December 15 each year, an
11 annual report which shall include all of the following:

12 1. The number of deferred judgments, deferred sentences,
13 and suspended sentences the court entered, including the
14 criminal offenses involved, during the previous year.

15 2. The number of defendants who received deferred
16 judgments, deferred sentences, and suspended sentences during
17 the previous year.

18 3. The number of cases where the court pronounced judgment
19 and imposed sentence after a defendant failed to comply with
20 the conditions set by the court for a deferred judgment or
21 deferred sentence.

22 4. The number of cases where the court revoked a suspended
23 sentence after a defendant failed to comply with conditions set
24 by the court.

25 5. The types of violations by a defendant of the conditions
26 imposed by the court that resulted in the court pronouncing
27 judgment and imposing sentence or revoking a suspended sentence
28 of a defendant. The report shall include information on
29 whether the violations were technical violations, due to the
30 commission of a new crime, or due to any other reason.

31 Sec. 33. NEW SECTION. 904.103A Recidivism — annual report.

32 1. The department, in cooperation with the board of parole,
33 shall submit to the governor and to the general assembly, not
34 later than December 15 each year, an annual report detailing
35 the recidivism rate in the state specifically for the violent

1 and sexual criminal offenses contained in section 902.12.

2 2. The report shall include, at a minimum, all of the
3 following:

4 a. The rate of recidivism, including the percentage and
5 number of offenders who committed another crime within three
6 years of being released from the custody of the department.

7 b. The percentage and number of offenders paroled or placed
8 on probation who violate the conditions of the offender's
9 release and are reincarcerated including information regarding
10 offenders who were returned for technical violations, and those
11 who were returned for the commission of a new crime.

12 c. Whether there were victims involved in the crimes
13 committed while an offender was paroled or on probation,
14 and whether any of the victims were previous victims of the
15 offender.

16 d. The types of offenses that caused the offender to be
17 returned to the custody of the department.

18 e. The type of release that preceded the offender's return
19 to the custody of the department.

20 f. The number of hearings the board of parole held before
21 the release of an offender who subsequently violated the
22 conditions of release and who was subsequently returned to the
23 custody of the department.

24 EXPLANATION

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

27 This bill relates to criminal law, including the disclosure
28 of a defendant's privileged records in a criminal action,
29 permanent no-contact orders, penalties for domestic abuse
30 assault, limitations on criminal actions involving certain
31 sexual offenses, criminal sentencing and corrections, parole
32 and work release, crime victim rights, discovery in criminal
33 actions, postconviction relief procedure, and certain reporting
34 requirements, and makes penalties applicable.

35 DIVISION I — COMMUNICATIONS IN PROFESSIONAL CONFIDENCE —

1 CRIMINAL ACTIONS. The bill defines "exculpatory information"
2 for purposes of a defendant seeking access to privileged
3 records in a criminal action to mean only information that
4 tends to negate the guilt of the defendant and not information
5 that is merely impeaching or is substantially cumulative in
6 nature.

7 DIVISION II — PERMANENT NO-CONTACT ORDERS — MODIFICATION
8 — REINSTATEMENT — CONVERSION — APPELLATE REVIEW. Current
9 law under Code section 664A.5 provides that if a defendant
10 is convicted of, receives a deferred judgment for, or pleads
11 guilty to Code section 708.2A (domestic abuse assault), 708.7
12 (harassment), 708.11 (stalking), 709.2 (sexual abuse in the
13 first degree), 709.3 (sexual abuse in the second degree), or
14 709.4 (sexual abuse in the third degree), the court shall
15 either terminate or modify the temporary no-contact order
16 issued by the magistrate. The court may enter a no-contact
17 order or continue the no-contact order already in effect for
18 a period of five years from the date the judgment is entered
19 or the deferred judgment is granted, regardless of whether the
20 defendant is placed on probation.

21 The bill provides that a permanent no-contact order issued
22 for the offenses listed in Code chapter 664A.5 may be modified
23 or dissolved upon application by the victim to the district
24 court subject to all of the following: the application may be
25 filed by the victim, a victim counselor, the victim's attorney,
26 or the prosecuting attorney; the prosecuting attorney shall
27 be notified of the application if filed by the victim; and
28 the prosecuting attorney shall be given the opportunity to be
29 heard at a hearing prior to the modification or dissolution
30 of the no-contact order. If a hearing is held, the victim
31 may appear electronically, in person, in writing, through a
32 victim counselor, through the victim's attorney, or through
33 the prosecuting attorney; the victim shall not be subject to
34 cross-examination by the defendant but may be questioned by the
35 prosecuting attorney under such conditions as the court may

1 impose; and the defendant shall not have the right to appear
2 in person but may be compelled to appear by the court when
3 appropriate.

4 The bill provides that a permanent no-contact order entered
5 by the court may be modified or dissolved upon application by
6 the defendant to the district court if all of the following
7 apply: the application is verified; the application is
8 served upon the prosecuting attorney for the county in which
9 the defendant principally resides; the application is served
10 upon the prosecuting attorney in any county in which the
11 defendant has been convicted of an offense requiring entry of
12 a no-contact order; prior to disposition of an application,
13 the prosecuting attorney notifies the victim, if the victim's
14 address is known, and provides the victim the opportunity to
15 be heard; five or more years have passed since the discharge
16 of the sentence for the offense resulting in the issuance
17 of the no-contact order including any special sentence; the
18 defendant is not incarcerated for any offense at the time the
19 application is filed; and the defendant has not been convicted
20 of any new indictable offense since the imposition of the
21 permanent no-contact order. The bill provides the procedure
22 for a court considering an application by the defendant to
23 modify or dissolve a permanent no-contact order. A district
24 court shall not modify or dissolve a permanent no-contact order
25 unless the district court makes a written finding that the
26 defendant no longer presents a danger to the victim and that
27 the modification or dissolution is in the interest of justice.

28 The bill provides that upon the filing of an application by
29 the victim, a victim counselor, the victim's attorney, or the
30 prosecuting attorney, the court shall reinstate any permanent
31 no-contact order that expired because it was not extended
32 pursuant to Code section 664A.8, Code 2022. A no-contact order
33 issued prior to July 1, 2022, that is reinstated under the
34 bill shall be governed by Code section 664A.5 as modified in
35 the bill. The court shall presume that the offender continues

1 to present a danger to the victim and that reinstating an
2 expired no-contact order is in the interest of justice. The
3 court shall only deny an application to reinstate an expired
4 no-contact order if the district court makes written findings
5 that the defendant no longer presents a danger to the victim
6 and that denying the request is in the interest of justice.

7 The bill provides that a five-year no-contact order entered
8 prior to July 1, 2022, that has not expired as of July 1, 2022,
9 may be converted into a permanent no-contact order as if the
10 order was entered after July 1, 2022, upon application by the
11 victim, a victim counselor, the victim's attorney, or the
12 prosecuting attorney.

13 The bill provides that the provisions of Code chapter
14 664A are the only means by which a party may seek to modify
15 a no-contact order. Appellate review of an order granting
16 or denying a modification or dissolution of a no-contact
17 order shall be by writ of certiorari and such an order is not
18 appealable as a matter of right.

19 The bill makes certain legislative findings relating to the
20 reinstatement of expired no-contact orders.

21 The bill repeals Code section 664A.8 (extension of
22 no-contact order).

23 DIVISION III — DOMESTIC ABUSE ASSAULT PENALTIES. The bill
24 eliminates current law that provides that a conviction for,
25 deferred judgment for, or plea of guilty to, a violation of
26 Code section 708.2A (domestic abuse assault) which occurred
27 more than 12 years prior to the date of the violation charged
28 shall not be considered in determining that the violation
29 charged is a second or subsequent offense.

30 DIVISION IV — LIMITATION OF CRIMINAL ACTIONS INVOLVING
31 CERTAIN SEXUAL OFFENSES. The bill adds the following offenses
32 to the list of offenses committed on or with a person under
33 the age of 18 that may be commenced at any time: continuous
34 sexual abuse of a child in violation of Code section 709.23;
35 kidnapping in the first degree when the person kidnapped, and

1 as a consequence of the kidnapping, is intentionally subjected
2 to sexual abuse in violation of Code section 710.2; and
3 burglary in the first degree involving the performance of a sex
4 act in violation of Code section 713.3(1)(d).

5 DIVISION V — CRIMINAL SENTENCING AND CORRECTIONS. The
6 bill provides that prior to imposing sentence, the court shall
7 ask any victim physically present at the sentencing whether
8 the victim or a representative of the victim has been informed
9 by the prosecuting attorney or a designee of the prosecuting
10 attorney of the status of the case and of the prosecuting
11 attorney's recommendation for sentencing.

12 The bill provides that if a person is sentenced for two or
13 more separate offenses contained in Code section 902.12(1)
14 (minimum sentences for certain felony and misdemeanor
15 offenses), and one or more of the convictions is for an offense
16 under Code chapter 709 (sexual abuse) or 710 (kidnapping and
17 related offenses), the sentencing judge shall require that the
18 sentences be served consecutively.

19 The bill provides minimum sentences for any person convicted
20 of a felony contained in Code section 902.12, and who did
21 not receive a deferred judgment or a deferred or suspended
22 sentence, if not otherwise prescribed by another statute, as
23 follows: a person convicted of a class "B" felony shall be
24 confined for no less than one year; a person convicted of a
25 class "C" felony shall be confined for no less than two months;
26 and a person convicted of a class "D" felony shall be confined
27 for no less than one month.

28 Current law requires that a person shall be denied parole or
29 work release unless the person has served at least seven-tenths
30 of the maximum term of the person's sentence for the most
31 serious felonies. The bill provides that a person convicted
32 of certain felonies on or after July 1, 2023, except for a
33 violation classified as a class "A" felony, shall be denied
34 parole or work release unless the person has served at least
35 nine-tenths of the maximum term of the person's sentence.

1 Felonies requiring a person to serve nine-tenths of the
2 maximum term of the person's sentence include homicide or a
3 related crime (Code chapter 707); assault (Code chapter 708);
4 terrorism (Code chapter 708A); sexual abuse (Code chapter 709);
5 kidnapping and related offenses (Code chapter 710); human
6 trafficking except for a violation of Code section 710A.2A
7 (Code chapter 710A); robbery, aggravated theft, or extortion
8 (Code chapter 711); arson (Code chapter 712); burglary, except
9 for a violation of Code section 713.7 (Code chapter 713);
10 criminal gang participation or gang recruitment (Code chapter
11 723A); and obscenity (Code chapter 728).

12 The bill provides that the minimum sentence for any person
13 convicted of a misdemeanor contained in Code section 902.12,
14 and who did not receive a deferred judgment or a deferred or
15 suspended sentence, if not otherwise prescribed by another
16 statute, shall be as follows: a person convicted of an
17 aggravated misdemeanor shall be confined for no less than 14
18 days, a person convicted of a serious misdemeanor shall be
19 confined for no less than 7 days, and a person convicted of a
20 simple misdemeanor shall be confined for no less than 2 days.

21 The bill provides that for earned time purposes, sentences
22 for attempted murder described in Code section 707.11(5)
23 (attempt to commit murder of a peace officer), and sentences
24 for any of the offenses described in Code section 902.12(1)
25 (minimum sentences for certain felonies), shall be classified
26 as category "C" sentences. An inmate serving a category "C"
27 sentence is ineligible for a reduction of sentence under Code
28 section 903A.2.

29 DIVISION VI — PAROLE AND WORK RELEASE. Current law provides
30 that parole or work release shall be ordered by the board of
31 parole only for the best interest of society and the offender,
32 and only when there is a reasonable probability that the person
33 can be released without detriment to the community or the
34 person. The bill requires that any parole or work release
35 must be in the best interest of society, of any victim of the

1 person, and the person, and only when the board of parole
2 determines there is a significant probability that the person
3 can be released without detriment to any victim of the person.

4 The bill provides that the board of parole shall, at least
5 annually but no more frequently than every 6 months, review
6 the status of a person other than a class "A" felon, a class
7 "B" felon serving a sentence of more than 25 years, a felon
8 serving an offense punishable under Code section 902.9(1)(a)
9 (conspiracy to manufacture for delivery or delivery or intent
10 or conspiracy to deliver amphetamine or methamphetamine to a
11 minor), or a felon serving a mandatory minimum sentence other
12 than a class "A" felon, and shall provide the person with
13 notice of the board's parole or work release decision.

14 The bill provides that the board of parole shall require
15 that all parole hearings be recorded and maintained as a public
16 record under Code chapter 22 for a minimum of three years from
17 the date of the hearing or the most recent release of an inmate
18 on parole.

19 The bill provides that it is the intent of the general
20 assembly that the board of parole shall implement a plan of
21 early release to ensure that parole or work release is only
22 ordered when it is in the best interest of society, any victim
23 of the person, and the person.

24 DIVISION VII — CRIME VICTIMS — RIGHTS. The bill provides
25 that a local police department or county sheriff's department
26 shall provide a victim with a pamphlet explaining the victim's
27 rights as a victim of a public offense or delinquent act.

28 The bill requires that a local police department or county
29 sheriff's department shall provide to the crime victim
30 assistance division of the department of justice contact
31 information for a victim of a public offense or delinquent act.
32 A victim counselor shall contact a victim to determine whether
33 the victim is in need of further assistance from the victim
34 counselor or whether the victim has any questions regarding the
35 person's rights as a victim.

1 The bill provides that it is the public policy of the state
2 that statements made by children to forensic interviewers
3 at child advocacy centers and child protection centers are
4 presumptively reliable and should be admitted into evidence
5 in the courts. Notwithstanding any other provision of law,
6 a court shall admit a recorded statement into evidence upon
7 motion by a party if the statement is made by a child under
8 the age of 14 years; the recorded statement describes conduct
9 that violates Code chapter 709 (sexual abuse); the recorded
10 statement was obtained by a forensic interviewer employed by an
11 accredited child advocacy center or child protection center;
12 the interview was conducted substantially in accordance with a
13 nationally recognized protocol for interviewing children; and
14 if the recorded statement is offered in a criminal proceeding,
15 the opposing party was given at least 10 days' notice of
16 the intention to admit the recorded statement and the child
17 testifies at trial or the child has been questioned by the
18 defendant or the defendant's attorney at a deposition or any
19 substantially similar setting, the child is unavailable, and
20 the court finds by a preponderance of the evidence that the
21 child would suffer significant emotional or psychological
22 trauma from testifying in the personal presence of the
23 defendant at the time of the criminal proceeding.

24 The bill provides that a court may deny admission of a
25 recorded statement only if the party opposing admission proves
26 by clear and convincing evidence that the recorded statement is
27 unreliable. Portions of a recorded statement may be redacted
28 by agreement of the parties, by order of the court, or if the
29 court finds by a preponderance of the evidence that redaction
30 is necessary to either minimize embarrassment or trauma to the
31 child or to effectuate a provision of the rules of evidence
32 other than the rules against hearsay.

33 The bill provides that a defendant charged with a criminal
34 offense for sexual abuse or who has filed an application for
35 postconviction relief after conviction for sexual abuse shall

1 be precluded from questioning any victim regarding evidence
2 which is inadmissible under Iowa rule of evidence 5.412
3 (victim's past sexual behavior in sexual abuse cases). Such
4 prohibited evidence includes reputation or opinion evidence of
5 a victim offered to prove that a victim engaged in other sexual
6 behavior and evidence of a victim's other sexual behavior other
7 than reputation or opinion evidence.

8 The bill directs the commission on continuing legal
9 education to amend Iowa court rule 42.2 (continuing legal
10 education requirements for licensed attorneys) to require that
11 all attorneys licensed in this state complete a minimum of one
12 hour, annually, of continuing legal education that focuses on
13 crime victims and how to improve a crime victim's experience
14 within the criminal justice system.

15 DIVISION VIII — DISCOVERY. The bill provides that a
16 criminal defendant or counsel acting on the defendant's
17 behalf shall not issue any subpoena for documents or other
18 evidence except upon application to the court. Such an
19 application shall not be granted unless a defendant proves by
20 a preponderance of the evidence all of the following: the
21 evidence is material and necessary to prepare a defense; the
22 defendant has made reasonable efforts to obtain the evidence
23 without invoking compulsory process; the evidence is not
24 available from any other source; and for evidence that is
25 obtainable by the state only through the execution of a search
26 warrant, the defendant must show probable cause that the
27 information sought contains exculpatory information that is not
28 available from any other source and that there is a compelling
29 need for the evidence to enable the defendant to present a
30 defense at trial. The bill shall not apply to a subpoena
31 issued solely to secure the presence of a witness listed in the
32 minutes of testimony at deposition or to secure the presence
33 of a witness listed in either the minutes of testimony or
34 in the defendant's witness list at a hearing or trial. If
35 any documents or evidence are obtained pursuant to the bill,

1 the criminal defendant or counsel acting on the defendant's
2 behalf must notify the prosecuting attorney within 24 hours of
3 obtaining the documents or evidence. The documents or evidence
4 received, or copies, must be provided to the prosecuting
5 attorney as soon as possible. Evidence or documents obtained
6 by a subpoena that do not comply with the bill shall not be
7 admissible in any criminal action if offered by the defendant.
8 The bill shall not eliminate or reduce a criminal defendant's
9 obligation to comply with Code section 622.10(4) (disclosure of
10 privileged records in a criminal action to a defendant) when
11 seeking privileged records.

12 The bill provides that discovery depositions shall not
13 be permitted in any criminal action, except upon application
14 to the court and a showing of exceptional circumstances. A
15 criminal defendant must file a witness list when the defendant
16 requests or receives any discretionary discovery, the date when
17 any deposition is taken, or 10 days before trial, whichever
18 date is earliest. If the defendant fails to timely list a
19 witness, the court shall prohibit the witness from testifying
20 at trial absent good cause shown for the defendant's failure to
21 timely list the witness.

22 DIVISION IX — POSTCONVICTION RELIEF AND DISCOVERY
23 PROCEDURE. The bill provides that all rules and statutes
24 applicable in civil proceedings are available to the parties
25 in a postconviction relief action subject to the restrictions
26 contained in new Code section 822.7A in the bill.

27 The bill provides that Code chapter 822 (postconviction
28 relief procedure) is intended to provide a limited scope
29 of discovery that is no broader than what is afforded to a
30 defendant in a criminal action. The following limitations
31 on discovery and procedure shall apply to any postconviction
32 relief action under Code chapter 822: an applicant may conduct
33 discovery only by order of the court to be granted upon a
34 showing that the information sought is reasonably calculated
35 to lead to the discovery of admissible evidence to support

1 or defeat a claim that is adequately pled in the application
2 and, if taken as true, makes a colorable claim for relief; an
3 applicant shall not be permitted to depose or otherwise conduct
4 discovery involving a victim unless the applicant proves that
5 the evidence is necessary to prove the applicant is innocent of
6 the underlying public offense and all lesser-included offenses,
7 the information is not available from any other source, and
8 contact with a victim is minimized by limitations on the method
9 of discovery; the confidential communication privilege shall
10 be absolute, except that the filing of an application waives
11 any privilege the applicant may claim regarding an attorney who
12 represented the applicant in the underlying criminal action or
13 any previous postconviction application; evidence that would
14 be excluded in a criminal action pursuant to Iowa rule of
15 evidence 5.412 shall not be discoverable or admissible in a
16 postconviction relief action; the state shall not be required
17 to produce copies of discovery that was previously disclosed to
18 an applicant in the underlying criminal action or a previous
19 postconviction relief action or which was possessed by the
20 applicant in the underlying criminal action or a previous
21 postconviction relief action; the state shall not be required
22 to produce any discovery contained in a court file accessible
23 to the applicant; the state shall not be required to produce
24 any discovery that cannot lawfully be disseminated or that is
25 otherwise made confidential by law; and an applicant shall not
26 be permitted to conduct discovery or seek the appointment of
27 an expert witness through ex parte communication or in camera
28 review.

29 DIVISION X — REQUIRED REPORTS TO THE GENERAL ASSEMBLY.
30 The bill provides that each district judge shall submit to
31 the governor and to the general assembly, not later than
32 December 15 each year, an annual report which includes all of
33 the following: the number of deferred judgments, deferred
34 sentences, and suspended sentences the court entered, including
35 the criminal offenses involved, during the previous year; the

1 number of defendants who received deferred judgments, deferred
2 sentences, and suspended sentences during the previous year;
3 the number of cases where the court pronounced judgment and
4 imposed sentence after a defendant failed to comply with
5 the conditions set by the court for a deferred judgment or
6 deferred sentence; the number of cases where the court revoked
7 a suspended sentence after a defendant failed to comply with
8 conditions set by the court; and the types of violations by a
9 defendant of the conditions imposed by the court that resulted
10 in the court pronouncing judgment and imposing sentence or
11 revoking a suspended sentence. Included in the report shall
12 be whether the violations were technical violations, the
13 commission of a new crime, or any other reason.

14 The bill provides that the department of corrections, in
15 cooperation with the board of parole, shall submit to the
16 governor and to the general assembly, not later than December
17 15 each year, an annual report detailing the recidivism rate
18 in the state for the violent and sexual criminal offenses
19 contained in Code section 902.12. The report shall include,
20 at a minimum, the rate of recidivism within three years of an
21 offender being released from the custody of the department;
22 the percentage and number of offenders paroled or placed
23 on probation who violate the conditions of release and are
24 reincarcerated; whether there were victims involved in the
25 crimes committed while an offender was paroled or on probation,
26 and whether any of the victims were previous victims of the
27 offender; the types of offenses that caused the offender to be
28 returned to the custody of the department; the type of release
29 that preceded the offender's return to the custody of the
30 department; and the number of hearings the board of parole held
31 before the release of an offender who subsequently violated the
32 conditions of release and was then returned to the custody of
33 the department.