

Senate File 2382 - Reprinted

SENATE FILE 2382
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2196)

(As Amended and Passed by the Senate February 28, 2018)

A BILL FOR

1 An Act relating to criminal law and procedure including certain
2 related administrative proceedings, providing penalties, and
3 including effective date provisions.

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

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DIVISION I
EXPUNGEMENTS

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

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

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

1. Upon application of a defendant convicted of a misdemeanor offense 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. Upon objection by the county attorney to the application,
6 the court shall dismiss the application if any of the following
7 apply:

8 *a.* A conviction under section 123.46 or similar local
9 ordinance.

10 *b.* A simple misdemeanor conviction under section 123.47,
11 subsection 3, or similar local ordinance.

12 *c.* A conviction for dependent adult abuse under section
13 235B.20.

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

15 *e.* A conviction under section 321J.2.

16 *f.* A conviction for a sex offense as defined in section
17 692A.101.

18 *g.* A conviction for involuntary manslaughter under section
19 707.5.

20 *h.* A conviction for assault under section 708.2, subsection
21 3.

22 *i.* A conviction under section 708.2A.

23 *j.* A conviction for harassment under section 708.7.

24 *k.* A conviction for stalking under section 708.11.

25 *l.* A conviction for removal of an officer's communication or
26 control device under section 708.12.

27 *m.* A conviction for trespass under section 716.8, subsection
28 3 or 4.

29 *n.* A conviction under chapter 717C.

30 *o.* A conviction under chapter 719.

31 *p.* A conviction under chapter 720.

32 *q.* A conviction under section 721.2.

33 *r.* A conviction under section 721.10.

34 *s.* A conviction under section 723.1.

35 *t.* A conviction under chapter 724.

1 *u.* A conviction under chapter 726.

2 *v.* A conviction under chapter 728.

3 *w.* A conviction under chapter 901A.

4 *x.* A conviction for a comparable offense listed in 49 C.F.R.
5 §383.51(b) (table 1), and 49 C.F.R. §383.51(e) (table 4).

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

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

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

14 *ab.* The defendant has previously been granted two deferred
15 judgments.

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

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

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

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

33 6. The supreme court may prescribe rules governing the
34 procedures applicable to the expungement of a criminal case
35 under this section.

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

3 DIVISION II

4 ROBBERY

5 Sec. 3. NEW SECTION. 702.26 Simulated firearm.

6 "*Simulated firearm*" means a device which is not a firearm,
7 but which is expressly represented to be a firearm, or
8 an object which is not a firearm but which is impliedly
9 represented to be a firearm and which under the circumstances
10 would lead a reasonable person to believe it to be a firearm.

11 Sec. 4. NEW SECTION. 702.27 Simulated explosive.

12 "*Simulated explosive*" means a device which is not an
13 explosive, but which is expressly represented to be an
14 explosive, or a device which is not an explosive but is
15 impliedly represented to be an explosive and which by its
16 appearance would lead a reasonable person to believe it to be
17 an explosive.

18 Sec. 5. Section 711.2, Code 2018, is amended to read as
19 follows:

20 **711.2 Robbery in the first degree.**

21 A person commits robbery in the first degree when, while
22 perpetrating a robbery, the person purposely inflicts or
23 attempts to inflict serious injury, or is armed with a
24 dangerous weapon, simulated firearm, or simulated explosive.
25 Robbery in the first degree is a class "B" felony.

26 Sec. 6. Section 711.3, Code 2018, is amended to read as
27 follows:

28 **711.3 Robbery in the second degree.**

29 All robbery which is not robbery in the first degree is
30 robbery in the second degree, ~~except as provided in section~~
31 ~~711.3A.~~ Robbery in the second degree is a class "C" felony.

32 Sec. 7. Section 901.11, Code 2018, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 2A. At the time of sentencing, the court
35 shall determine when a person convicted of robbery in the first

1 degree as described in section 902.12, subsection 2A, shall first become eligible for parole or work release within the parameters specified in section 902.12, subsection 2A, based upon all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

7 Sec. 8. Section 902.12, subsection 1, paragraph e, Code 8 2018, is amended to read as follows:

9 e. Robbery in the ~~first or~~ second degree in violation of 10 section ~~711.2 or~~ 711.3, except as determined in subsection 3.

11 Sec. 9. Section 902.12, Code 2018, is amended by adding the 12 following new subsection:

13 NEW SUBSECTION. 2A. A person serving a sentence for a 14 conviction for robbery in the first degree in violation of 15 section 711.2 for a conviction that occurs on or after July 1, 16 2018, shall be denied parole or work release until the person 17 has served between one-half and seven-tenths of the maximum 18 term of the person's sentence as determined under section 19 901.11, subsection 2A.

20 Sec. 10. REPEAL. Section 711.3A, Code 2018, is repealed.

21 DIVISION III

22 PROPERTY CRIMES — VALUE

23 Sec. 11. Section 712.3, Code 2018, is amended to read as 24 follows:

25 **712.3 Arson in the second degree.**

26 Arson which is not arson in the first degree is arson in the 27 second degree when the property which is the subject of the 28 arson is a building or a structure, or real property of any 29 kind, or standing crops, or is personal property the value of 30 which exceeds ~~five~~ seven hundred ~~fifty~~ dollars. Arson in the 31 second degree is a class "C" felony.

32 Sec. 12. Section 714.2, Code 2018, is amended to read as 33 follows:

34 **714.2 Degrees of theft.**

35 1. The theft of property exceeding ten thousand dollars in

1 value, or the theft of property from the person of another, or
2 from a building which has been destroyed or left unoccupied
3 because of physical disaster, riot, bombing, or the proximity
4 of battle, or the theft of property which has been removed from
5 a building because of a physical disaster, riot, bombing, or
6 the proximity of battle, is theft in the first degree. Theft
7 in the first degree is a class "C" felony.

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

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

22 4. The theft of property exceeding ~~two~~ three hundred dollars
23 in value but not exceeding ~~five~~ seven hundred fifty dollars
24 in value is theft in the fourth degree. Theft in the fourth
25 degree is a serious misdemeanor.

26 5. The theft of property not exceeding ~~two~~ three hundred
27 dollars in value is theft in the fifth degree. Theft in the
28 fifth degree is a simple misdemeanor.

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

31 1. A person commits aggravated theft when the person commits
32 an assault as defined in [section 708.1, subsection 2](#), paragraph
33 "a", that is punishable as a simple misdemeanor under section
34 708.2, subsection 6, after the person has removed or attempted
35 to remove property not exceeding ~~two~~ three hundred dollars in

1 value which has not been purchased from a store or mercantile
2 establishment, or has concealed such property of the store or
3 mercantile establishment, either on the premises or outside the
4 premises of the store or mercantile establishment.

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

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

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

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

13 1. Fraudulent practice in the second degree is the
14 following:

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

18 b. A fraudulent practice where the amount of money or
19 value of property or services involved does not exceed one
20 thousand five hundred dollars by one who has been convicted of
21 a fraudulent practice twice before.

22 Sec. 16. Section 714.11, subsection 1, paragraph a, Code
23 2018, is amended to read as follows:

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

28 Sec. 17. Section 714.12, Code 2018, is amended to read as
29 follows:

30 **714.12 Fraudulent practice in the fourth degree.**

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

35 2. Fraudulent practice in the fourth degree is a serious

1 misdemeanor.

2 Sec. 18. Section 714.13, Code 2018, is amended to read as
3 follows:

4 **714.13 Fraudulent practice in the fifth degree.**

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

8 2. Fraudulent practice in the fifth degree is a simple
9 misdemeanor.

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

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

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

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

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

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

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

32 1. Criminal mischief is criminal mischief in the second
33 degree if the cost of replacing, repairing, or restoring the
34 property that is damaged, defaced, altered, or destroyed
35 exceeds one thousand five hundred dollars but does not exceed

1 ten thousand dollars.

2 Sec. 22. Section 716.5, subsection 1, paragraph a, Code
3 2018, is amended to read as follows:

4 a. The cost of replacing, repairing, or restoring the
5 property that is damaged, defaced, altered, or destroyed
6 exceeds ~~five~~ seven hundred fifty dollars, but does not exceed
7 one thousand five hundred dollars.

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

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

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

16 2. Any person committing a trespass as defined in section
17 716.7, other than a trespass as defined in section 716.7,
18 subsection 2, paragraph "a", subparagraph (6), which results in
19 injury to any person or damage in an amount more than ~~two~~ three
20 hundred dollars to anything, animate or inanimate, located
21 thereon or therein commits a serious misdemeanor.

22 4. A person committing a trespass as defined in section
23 716.7 with the intent to commit a hate crime which results in
24 injury to any person or damage in an amount more than ~~two~~ three
25 hundred dollars to anything, animate or inanimate, located
26 thereon or therein commits an aggravated misdemeanor.

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

29 d. A person commits railroad vandalism in the fourth degree
30 if the person intentionally commits railroad vandalism which
31 results in property damage which costs ten thousand dollars
32 or less but more than one thousand five hundred dollars to
33 replace, repair, or restore. Railroad vandalism in the fourth
34 degree is a class "D" felony.

35 e. A person commits railroad vandalism in the fifth degree

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

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

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

17 Sec. 26. Section 716A.2, subsection 2, paragraph b, Code
18 2018, is amended to read as follows:

19 *b.* The revenue generated from a specific unsolicited bulk
20 electronic mail transmission exceeds one thousand five hundred
21 dollars or the total revenue generated from all unsolicited
22 bulk electronic mail transmitted to any electronic mail service
23 provider by the person exceeds fifty thousand dollars.

24 DIVISION IV

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

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

28 **124.412 Notice of conviction.**

29 If a person enters a plea of guilty to, or forfeits bail
30 or collateral deposited to secure the person's appearance in
31 court, and such forfeiture is not vacated, or if a person
32 is found guilty upon an indictment or information alleging a
33 violation of this chapter, a copy of the minutes attached to
34 the indictment returned by the grand jury, or to the county
35 attorney's information, a copy of the judgment and sentence,

1 and a copy of the opinion of the judge if one is filed, shall
2 be sent by the clerk of the district court or the judge to
3 ~~the state department of transportation and to~~ any state board
4 or officer by whom the convicted person has been licensed or
5 registered to practice the person's profession or carry on
6 the person's business. On the conviction of a person, the
7 court may suspend or revoke the license or registration of the
8 convicted defendant to practice the defendant's profession
9 or carry on the defendant's business. On the application of
10 a person whose license or registration has been suspended or
11 revoked, and upon proper showing and for good cause, the board
12 or officer may reinstate the license or registration.

13 Sec. 28. Section 321.212, subsection 1, paragraph d, Code
14 2018, is amended by striking the paragraph.

15 Sec. 29. Section 321.215, subsection 1, paragraph b, Code
16 2018, is amended to read as follows:

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

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

35 Upon conviction and the suspension or revocation of a

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

17 Sec. 31. Section 321.215, subsection 2, paragraph c, Code
18 2018, is amended to read as follows:

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

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

26 1. A person whose driver's license or operating privilege
27 has been denied, canceled, suspended, or revoked as provided
28 in [this chapter](#) or as provided in [section 252J.8](#) ~~or section~~
29 ~~[901.5, subsection 10](#)~~, and who operates a motor vehicle upon
30 the highways of this state while the license or privilege
31 is denied, canceled, suspended, or revoked, commits a
32 simple misdemeanor. In addition to any other penalties, the
33 punishment imposed for a violation of [this subsection](#) shall
34 include assessment of a fine of not less than two hundred fifty
35 dollars nor more than one thousand five hundred dollars.

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

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

14 Sec. 34. Section 901.5, subsection 10, Code 2018, is amended
15 by striking the subsection.

16 Sec. 35. REINSTATEMENT OF DRIVER'S LICENSE. A defendant's
17 driver's license suspended or revoked pursuant to section
18 901.5, subsection 10, prior to the effective date of this Act,
19 shall be reinstated, if the defendant is otherwise eligible for
20 a driver's license.

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

31 DIVISION V

32 THEFT, FRAUD, AND FORGERY REVISIONS

33 Sec. 37. NEW SECTION. 714.2A **Consolidation of theft**
34 **offenses.**

35 For purposes of charging a person with theft, any conduct

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

16 Sec. 38. Section 715A.2, subsection 2, paragraph a, Code
17 2018, is amended by adding the following new subparagraph:

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

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

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

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

1 Sec. 40. Section 802.5, Code 2018, is amended to read as
2 follows:

3 **802.5 Extension for fraud, fiduciary breach.**

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

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

18 DIVISION VI

19 CRIMINAL PROCEEDINGS

20 Sec. 41. NEW SECTION. 701.12 Reference to victim in
21 criminal proceeding.

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

32 Sec. 42. Section 814.6, subsection 1, paragraph a, Code
33 2018, is amended to read as follows:

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

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

3 (2) An ordinance violation.

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

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

9 NEW PARAGRAPH. f. An order denying a motion in arrest of
10 judgment on grounds other than an ineffective assistance of
11 counsel claim.

12 Sec. 44. Section 814.7, Code 2018, is amended to read as
13 follows:

14 **814.7 Ineffective assistance claim on appeal in a criminal**
15 **case.**

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

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

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

32 Sec. 45. NEW SECTION. 814.28 General verdicts.

33 When the prosecution relies on multiple or alternative
34 theories to prove the commission of a public offense, a jury
35 may return a general verdict. If the jury returns a general

1 verdict, an appellate court shall not set aside or reverse such
2 a verdict on the basis of a defective or insufficient theory
3 if one or more of the theories presented and described in the
4 complaint, information, indictment, or jury instruction is
5 sufficient to sustain the verdict on at least one count.

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

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

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

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

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

32 The court file containing the conviction for which an
33 applicant seeks postconviction relief shall be part of the
34 record in any action under this chapter. Upon the filing
35 of an application for postconviction relief pursuant to

1 section 822.3, the clerk of the district court shall make the
2 underlying criminal file records accessible to the applicant,
3 applicant's attorney, county attorney, and attorney general.
4 If the criminal file records are not available in electronic
5 format, the clerk of the district court shall convert the
6 records to an electronic format and make the records available
7 to the applicant, county attorney, and attorney general.

8 DIVISION VII

9 STATE AND COUNTY MEDICAL EXAMINER DEATH REPORTS AND
10 INVESTIGATIONS

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

13 NEW PARAGRAPH. *c.* In formulating findings and conclusions
14 regarding the cause and manner of death, the state medical
15 examiner or county medical examiner shall be allowed to rely
16 upon and include in the report referred to in subsection 2,
17 paragraph "a", any information provided by an attorney, law
18 enforcement agency, witness, or any person with relevant
19 information to the medical examiner conducting the autopsy.

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

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

32 6. a. The report of an investigation made by the state
33 medical examiner or a county medical examiner and the record
34 and report of an autopsy made under [this section](#) or chapter
35 691, shall be received as evidence in any court or other

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

22 b. In conducting an investigation or autopsy under this
 23 part, including but not limited to developing a clinical
 24 history of the decedent and formulating findings and
 25 conclusions or forming opinions as to the cause and manner of
 26 death, the state medical examiner or county medical examiner
 27 may use any information provided or available for review,
 28 including but not limited to information or statements by a
 29 witness, a suspect, or any other person with information which
 30 is provided by or obtained in the course of a law enforcement
 31 investigation. Such information or statements which the
 32 medical examiner has used in making the findings, conclusions,
 33 and opinions may also be included in the report of the medical
 34 examiner. A court shall not exclude the medical examiner's
 35 report or opinion as to the cause or manner of death on the

1 basis that the medical examiner relied on information from
2 other persons or from a law enforcement agency in forming that
3 report or opinion. Admission of such a report or opinion shall
4 not constitute reversible error.

5 DIVISION VIII

6 CRIMINAL PENALTIES

7 Sec. 51. Section 124.401, subsection 5, Code 2018, is
8 amended to read as follows:

9 5. It is unlawful for any person knowingly or intentionally
10 to possess a controlled substance unless such substance was
11 obtained directly from, or pursuant to, a valid prescription
12 or order of a practitioner while acting in the course of the
13 practitioner's professional practice, or except as otherwise
14 authorized by this chapter. Any Except as otherwise provided
15 in this subsection, any person who violates this subsection
16 is guilty of a serious misdemeanor for a first offense. A
17 person who commits a violation of this subsection and who has
18 previously been convicted of violating this chapter or chapter
19 124B or 453B, or chapter 124A as it existed prior to July 1,
20 2017, is guilty of an aggravated misdemeanor. A person who
21 commits a violation of this subsection and has previously
22 been convicted two or more times of violating this chapter or
23 chapter 124B or 453B, or chapter 124A as it existed prior to
24 July 1, 2017, is guilty of a class "D" felony.

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

30 (2) If the controlled substance is marijuana and the person
31 has been previously convicted of a violation of this subsection
32 in which the controlled substance was marijuana, the punishment
33 shall be as provided in section 903.1, subsection 1, paragraph
34 "b".

35 (3) If the controlled substance is marijuana and the person

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

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

7 b. Convictions for violations in any other states under
8 statutes substantially corresponding to this subsection shall
9 be counted as previous offenses. The courts shall judicially
10 notice the statutes of other states which define offenses
11 substantially equivalent to the offenses defined in this
12 subsection and can therefore be considered corresponding
13 statutes. Each previous violation on which a conviction was
14 entered prior to the date of the violation charged shall be
15 considered and counted as separate previous offense.

16 c. All or any part of a sentence imposed pursuant to
17 this subsection may be suspended and the person placed upon
18 probation upon such terms and conditions as the court may
19 impose including the active participation by such person in a
20 drug treatment, rehabilitation or education program approved
21 by the court.

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

33 e. If the controlled substance is amphetamine, its salts,
34 isomers, or salts of its isomers, or methamphetamine, its
35 salts, isomers, or salts of its isomers, the court shall order

1 the person to serve a term of imprisonment of not less than
2 forty-eight hours. Any sentence imposed may be suspended,
3 and the court shall place the person on probation upon such
4 terms and conditions as the court may impose. The court may
5 place the person on intensive probation. However, the terms
6 and conditions of probation shall require submission to random
7 drug testing. If the person fails a drug test, the court may
8 transfer the person's placement to any appropriate placement
9 permissible under the court order.

10 Sec. 52. Section 321J.20, subsection 10, Code 2018, is
11 amended to read as follows:

12 10. Notwithstanding any other provision of law to the
13 contrary, in any circumstance in which [this chapter](#) requires
14 the installation of an ignition interlock device in all
15 vehicles owned or operated by a person as a condition of the
16 person's license or privilege to operate noncommercial motor
17 vehicles, the department shall require the person to be a
18 participant in and in compliance with a sobriety and drug
19 monitoring program established pursuant to [chapter 901D](#) if the
20 person's offense under [this chapter](#) qualifies as an eligible
21 offense as defined in [section 901D.2](#), and the person's offense
22 occurred in a participating jurisdiction, as defined in section
23 901D.2. The requirement to participate in and comply with a
24 sobriety and drug monitoring program shall continue for such
25 period as is required under section 901D.7. The department of
26 public safety shall notify the department when the participant
27 has completed participation in the sobriety and drug monitoring
28 program. [This subsection](#) shall not apply if the court enters
29 an order finding the person is not required to participate
30 in a sobriety and drug monitoring program. The department,
31 in consultation with the department of public safety, may
32 adopt rules for issuing and accepting a certification of
33 participation in and compliance with a program established
34 pursuant to [chapter 901D](#). [This subsection](#) shall be construed
35 and implemented to comply with 23 U.S.C. §164(a), as amended by

1 the federal Fixing America's Surface Transportation Act, Pub.
2 L. No. 114-94, §1414, and shall not apply if such application
3 results in a finding of noncompliance with 23 U.S.C. §164 that
4 results or will result in a reservation or transfer of funds
5 pursuant to 23 U.S.C. §164(b). **This subsection** shall not
6 authorize the operation of a motor vehicle for any purpose not
7 otherwise authorized by **this chapter**.

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

10 NEW PARAGRAPH. c. Exceeding the speed limit by thirty miles
11 per hour or more, in violation of section 321.285, 321.290,
12 321.293, or 321.295, if the death of the other person directly
13 or indirectly results from the violation of section 321.285,
14 321.290, 321.293, or 321.295. This paragraph shall not apply
15 to a member of a public safety agency, as defined in section
16 34.1, performing official duties.

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

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

27 Sec. 55. Section 901D.7, subsection 2, Code 2018, is amended
28 to read as follows:

29 2. An order or directive placing a participant in the
30 program shall include the type of testing required to be
31 administered in the program and the length of time that the
32 participant is required to remain in the program. The length
33 of the program shall not be less than ninety days and the order
34 or directive shall include a requirement that the participant
35 not have a failed test result or have missed a required test

1 thirty days prior to the end of participation in the program.
2 The person issuing the order or directive shall send a copy of
3 the order or directive to the law enforcement agency of the
4 participating jurisdiction.

5 Sec. 56. Section 902.12, Code 2018, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 4. A person serving a sentence for a
8 conviction for arson in the first degree in violation of
9 section 712.2 that occurs on or after July 1, 2018, shall
10 be denied parole or work release until the person has served
11 between one-half and seven-tenths of the maximum term of
12 the person's sentence as determined under section 901.11,
13 subsection 4.

14 DIVISION IX

15 JUROR SERVICE AND DONATIONS

16 Sec. 57. Section 602.1302, subsection 3, Code 2018, is
17 amended to read as follows:

18 3. A revolving fund is created in the state treasury
19 for the payment of jury and witness fees, including juror
20 compensation and reimbursement donated pursuant to section
21 607A.8A, mileage, costs related to summoning jurors by the
22 judicial branch, costs and fees related to the management and
23 payment of interpreters and translators in judicial branch
24 legal proceedings and court-ordered programs, and attorney
25 fees paid by the state public defender for counsel appointed
26 pursuant to [section 600A.6A](#). The judicial branch shall
27 deposit any reimbursements to the state for the payment of
28 jury and witness fees and mileage in the revolving fund. In
29 each calendar quarter the judicial branch shall reimburse
30 the state public defender for attorney fees paid pursuant to
31 [section 600A.6B](#). Notwithstanding [section 8.33](#), unencumbered
32 and unobligated receipts in the revolving fund at the end of
33 a fiscal year do not revert to the general fund of the state.
34 The judicial branch shall on or before February 1 file a
35 financial accounting of the moneys in the revolving fund with

1 the legislative services agency. The accounting shall include
2 an estimate of disbursements from the revolving fund for the
3 remainder of the fiscal year and for the next fiscal year.

4 Sec. 58. NEW SECTION. 607A.6A Jury manager authority to
5 **excuse or defer juror service.**

6 The chief judge of the judicial district may authorize a jury
7 manager to excuse persons from juror service in accordance with
8 section 607A.4, 607A.5, or 607A.6 and to defer persons from
9 juror service in accordance with section 607A.4, 607A.5, or
10 607A.6, or for any other reason.

11 Sec. 59. Section 607A.8, subsection 3, Code 2018, is amended
12 to read as follows:

13 3. A grand juror or a petit juror in all courts may
14 waive the right of the juror to receive compensation under
15 subsection 1 or reimbursement under subsection 2 or donate such
16 compensation or reimbursement pursuant to section 607A.8A.

17 Sec. 60. NEW SECTION. 607A.8A Donation of juror
18 **compensation or reimbursement to state funds and charitable**
19 **organizations.**

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

24 2. Moneys deducted pursuant to this section shall be
25 paid promptly to the appropriate state fund or charitable
26 organization.

27 3. The state court administrator shall establish six
28 separate accounts for juror designated moneys for deposit into
29 the designated state fund or for charitable use or distribution
30 as provided in subsection 4.

31 4. (1) The state funds eligible to receive juror designated
32 compensation include all of the following:

33 (a) The victim compensation fund established in section
34 915.94.

35 (b) The court technology and modernization fund established

1 in section 602.8108.

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

4 (a) Domestic violence shelters or services.

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

7 (c) Pro se litigants.

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

9 Sec. 61. NEW SECTION. **607A.48 Public access to juror**
10 **information.**

11 Public access to juror and prospective juror information
12 shall be limited. The addresses and dates of birth of
13 prospective jurors are confidential and not subject to
14 disclosure without an order of the court.