

**EIGHTY-NINTH GENERAL ASSEMBLY
2022 REGULAR SESSION
DAILY
SENATE CLIP SHEET**

March 14, 2022

Clip Sheet Summary

Displays all amendments, fiscal notes, and conference committee reports for previous day.

Bill	Amendment	Action	Sponsor
SF 2080	S-5055	Lost	SARAH TRONE GARRIOTT
SF 2328	S-5052	Adopted	HERMAN C. QUIRMBACH
SF 2328	S-5054	Ruled Out of Order	JANET PETERSEN
SF 2328	S-5058	Adopted	JEFF REICHMAN
SF 2333	S-5056	Filed	JEFF TAYLOR
SF 2344	S-5053	Filed	DAWN DRISCOLL
HF 2154	S-5057	Filed	COMMITTEE ON STATE GOVERNMENT, et al
HF 2346	S-5051	Filed	CRAIG JOHNSON

Fiscal Notes

[HF 2412](#) — [Radon Testing, Schools](#) (LSB5759HV.1)

SENATE FILE 2080

S-5055

- 1 Amend Senate File 2080 as follows:
- 2 1. Page 1, line 13, after <district> by inserting <and
3 accredited nonpublic school>
- 4 2. Page 1, line 22, after <district> by inserting <or an
5 accredited nonpublic school>
- 6 3. Title page, line 3, after <districts,> by inserting
7 <accredited nonpublic schools,>

By SARAH TRONE GARRIOTT

S-5055 FILED MARCH 10, 2022

LOST

SENATE FILE 2328

S-5052

1 Amend Senate File 2328 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <DIVISION I

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

7 Section 1. Section 664A.5, Code 2022, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **664A.5 Modification — entry of permanent no-contact order.**

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

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

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

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

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

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

31 (1) The victim may appear electronically, in person,
32 or in writing, or through a victim counselor as defined in
33 section 915.20A, through the victim's attorney, or through the
34 prosecuting attorney.

35 (2) The victim shall not be subject to cross-examination

1 by the defendant, but may be questioned by the prosecuting
2 attorney under such conditions as the court may impose.

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

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

9 a. The application must be verified.

10 b. The application must be served upon the prosecuting
11 attorney for the county in which the defendant principally
12 resides.

13 c. The application must be served upon the prosecuting
14 attorney for any county in which the defendant has been
15 convicted of an offense requiring entry of a no-contact order
16 under this chapter.

17 d. Prior to disposition of an application under this
18 subsection, the prosecuting attorney must notify the victim,
19 if the victim's address is known, and afford the victim the
20 opportunity to be heard.

21 e. Five or more years have passed since the discharge of
22 the sentence for the offense resulting in the issuance of the
23 no-contact order, including any special sentence imposed under
24 chapter 903B.

25 f. The defendant is not incarcerated for any offense at the
26 time the application is filed.

27 g. The defendant has not been convicted of any new
28 indictable offense since the imposition of the permanent
29 no-contact order.

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

34 a. Consider any evidence offered by the parties, subject to
35 limitations under this section and any additional limitations

1 the court may impose.

2 *b.* Provide the victim an opportunity to be heard in any of
3 the following manners:

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

5 (2) Personally, through a victim counselor as defined in
6 section 915.20A, through the victim's attorney, or through the
7 prosecuting attorney.

8 *c.* Prohibit the cross-examination of the victim by the
9 defendant, but allow the prosecuting attorney to question the
10 victim under such conditions as the court may impose.

11 5. The district court shall not modify or dissolve a
12 permanent no-contact order unless the district court makes a
13 written finding that the defendant no longer presents a danger
14 to the victim and that the modification or dissolution is in
15 the interest of justice.

16 **Sec. 2. NEW SECTION. 664A.5A Reinstatement of expired**
17 **no-contact orders.**

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

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

26 3. An application to reinstate an expired no-contact
27 order shall create a rebuttable presumption that the
28 offender continues to present a danger to the victim and that
29 reinstating an expired no-contact order is in the interest of
30 justice. The application shall not require a statement that
31 the offender committed a recent overt act.

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

1 Sec. 3. NEW SECTION. **664A.5B Conversion of existing**
2 **no-contact orders.**

3 1. A five-year no-contact order entered prior to July 1,
4 2022, that has not expired as of July 1, 2022, may be converted
5 into a permanent no-contact order as if the order was entered
6 after July 1, 2022, upon application by the victim, a victim
7 counselor as defined in section 915.20A, the victim's attorney,
8 or the prosecuting attorney.

9 2. An application to convert a five-year no-contact order
10 into a permanent no-contact order shall create a rebuttable
11 presumption that the offender continues to present a danger
12 to the victim and that converting the no-contact order is in
13 the interest of justice. The application shall not require a
14 statement that the offender committed a recent overt act.

15 3. The court shall only deny an application to convert a
16 five-year no-contact order into a permanent no-contact order if
17 the court makes written findings that the defendant no longer
18 presents a danger to the victim and that denying the request
19 is in the interest of justice.

20 Sec. 4. NEW SECTION. **664A.7A Appellate review.**

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

25 2. Appellate review of court order granting or denying a
26 modification or dissolution of a no-contact order, including
27 proceedings related to conversion of a five-year no-contact
28 order, shall be by writ of certiorari. Such an order is not
29 appealable as a matter of right.

30 Sec. 5. Section 708.2A, subsection 8, Code 2022, is amended
31 to read as follows:

32 8. If a person is convicted for, receives a deferred
33 judgment for, or pleads guilty to a violation of this section,
34 the court shall modify the no-contact order issued upon initial
35 appearance and enter a permanent no-contact order in the manner

1 provided in section 664A.5, regardless of whether the person
2 is placed on probation.

3 Sec. 6. LEGISLATIVE FINDINGS — REINSTATEMENT OF EXPIRED
4 NO-CONTACT ORDERS. The general assembly finds and declares all
5 of the following:

6 1. The procedure required to extend no-contact orders
7 issued pursuant to chapter 664A prior to July 1, 2022, imposed
8 unreasonable barriers for crime victims to ensure no-contact
9 orders remained in place.

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

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

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

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

26 6. Reinstating expired no-contact orders pursuant to
27 section 664A.5A, as enacted in this division of this Act,
28 does not impose a new punishment on the offender, but instead
29 provides collateral relief and protection for the victim
30 without requiring the victim to bear the cost of a separate
31 court action.

32 Sec. 7. REPEAL. Section 664A.8, Code 2022, is repealed.

33 DIVISION II

34 DOMESTIC ABUSE ASSAULT PENALTIES

35 Sec. 8. Section 708.2A, subsection 6, paragraph a, Code

1 2022, is amended by striking the paragraph.

2

DIVISION III

3

LIMITATION OF CRIMINAL ACTIONS INVOLVING CERTAIN SEXUAL

4

OFFENSES

5

Sec. 9. Section 802.2B, Code 2022, is amended by adding the
6 following new subsections:

7

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

9

NEW SUBSECTION. 5B. Kidnapping in the first degree when the
10 person kidnapped, and as a consequence of the kidnapping, is
11 intentionally subjected to sexual abuse in violation of section
12 710.2.

13

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

15

Sec. 10. Section 802.2C, Code 2022, is amended to read as
16 follows:

17

802.2C Kidnapping.

18

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

28

DIVISION IV

29

CRIMINAL SENTENCING AND CORRECTIONS

30

Sec. 11. Section 901.4B, subsection 2, Code 2022, is amended
31 to read as follows:

32

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

1 a. Ask any victim or representative of the victim whether
2 the victim has been informed by the prosecuting attorney or the
3 prosecuting attorney's designee of the status of the case and
4 of the prosecuting attorney's recommendation for sentencing.

5 b. Allow any victim to be reasonably heard, including but
6 not limited to by presenting a victim impact statement in the
7 manner described in section 915.21.

8 Sec. 12. Section 901.8, Code 2022, is amended to read as
9 follows:

10 **901.8 Consecutive sentences.**

11 1. If a person is sentenced for two or more separate
12 offenses, the sentencing judge may order the second or further
13 sentence to begin at the expiration of the first or succeeding
14 sentence.

15 2. If a person is sentenced for escape under section 719.4
16 or for a crime committed while confined in a detention facility
17 or penal institution, the sentencing judge shall order the
18 sentence to begin at the expiration of any existing sentence.
19 If the person is presently in the custody of the director
20 of the Iowa department of corrections, the sentence shall be
21 served at the facility or institution in which the person
22 is already confined unless the person is transferred by the
23 director.

24 3. If a person is sentenced for two or more separate
25 offenses contained in section 902.12, subsection 1, and one or
26 more of the convictions is for an offense under chapter 709
27 or chapter 710, the sentencing judge shall require that the
28 sentences be served consecutively.

29 4. Except as otherwise provided in section 903A.7, if
30 consecutive sentences are specified in the order of commitment,
31 the several terms shall be construed as one continuous term of
32 imprisonment.

33 Sec. 13. Section 901.11, subsections 2, 3, 4, and 5, Code
34 2022, are amended to read as follows:

35 2. At the time of sentencing, the court shall determine

1 when a person convicted of child endangerment as described in
2 section 902.12, subsection 2 3, shall first become eligible
3 for parole or work release within the parameters specified
4 in section 902.12, subsection 2 3, based upon all pertinent
5 information including the person's criminal record, a validated
6 risk assessment, and whether the offense involved multiple
7 intentional acts or a series of intentional acts, or whether
8 the offense involved torture or cruelty.

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

17 4. At the time of sentencing, the court shall determine when
18 a person convicted of robbery in the second degree as described
19 in section 902.12, subsection 4 5, shall first become eligible
20 for parole or work release within the parameters specified
21 in section 902.12, subsection 4 5, based upon all pertinent
22 information including the person's criminal record, a validated
23 risk assessment, and the negative impact the offense has had
24 on the victim or other persons.

25 5. At the time of sentencing, the court shall determine when
26 a person convicted of arson in the first degree as described
27 in section 902.12, subsection 5 6, shall first become eligible
28 for parole or work release within the parameters specified
29 in section 902.12, subsection 5 6, based upon all pertinent
30 information including the person's criminal record, a validated
31 risk assessment, and the negative impact the offense has had
32 on the victim or other persons.

33 Sec. 14. NEW SECTION. 902.9A Minimum sentence — certain
34 felonies.

35 The minimum sentence for any person convicted of a felony

1 contained in section 902.12, and who did not receive a deferred
2 judgment or a deferred or suspended sentence under chapter 907,
3 shall be that prescribed by statute or, if not prescribed by
4 statute, shall be determined as follows:

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

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

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

11 Sec. 15. Section 902.12, Code 2022, is amended to read as
12 follows:

13 **902.12 Minimum sentence for certain felonies — eligibility**
14 **for parole or work release.**

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

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

21 b. Assault in violation of chapter 708.

22 c. Terrorism in violation of chapter 708A.

23 d. Sexual abuse in violation of chapter 709.

24 e. Kidnapping or related offenses in violation of chapter
25 710.

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

28 g. Robbery, aggravated theft, or extortion in violation of
29 chapter 711.

30 h. Arson in violation of chapter 712.

31 i. Burglary in violation of chapter 713, except for a
32 violation of section 713.7.

33 j. Criminal gang participation or gang recruitment in
34 violation of chapter 723A.

35 k. Obscenity in violation of chapter 728.

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

7 a. Murder in the second degree in violation of section
8 707.3.

9 b. Attempted murder in violation of section 707.11, except
10 as provided in section 707.11, subsection 5.

11 c. Sexual abuse in the second degree in violation of section
12 709.3.

13 d. Kidnapping in the second degree in violation of section
14 710.3.

15 e. Robbery in the second degree in violation of section
16 711.3, except as determined in subsection 4 5.

17 f. Vehicular homicide in violation of section 707.6A,
18 subsection 1 or 2, if the person was also convicted under
19 section 321.261, subsection 4, based on the same facts or
20 event that resulted in the conviction under section 707.6A,
21 subsection 1 or 2.

22 ~~2.~~ 3. A person serving a sentence for a conviction of
23 child endangerment as defined in section 726.6, subsection
24 1, paragraph "b", that is described and punishable under
25 section 726.6, subsection 5, shall be denied parole or work
26 release until the person has served between three-tenths and
27 seven-tenths of the maximum term of the person's sentence as
28 determined under section 901.11, subsection 2.

29 ~~3.~~ 4. A person serving a sentence for a conviction for
30 robbery in the first degree in violation of section 711.2 for
31 a conviction that occurs ~~on or after July 1, 2018~~ prior to
32 July 1, 2022, shall be denied parole or work release until
33 the person has served between one-half and seven-tenths of
34 the maximum term of the person's sentence as determined under
35 section 901.11, subsection 3.

1 or the person if the person is able and willing to fulfill
2 the obligations of a law-abiding citizen, in the board's
3 determination.

4 Sec. 18. Section 906.5, subsection 1, paragraph a, Code
5 2022, is amended to read as follows:

6 a. The board shall establish and implement a plan by which
7 the board systematically reviews the status of each person who
8 has been committed to the custody of the director of the Iowa
9 department of corrections and considers the person's prospects
10 for parole or work release. The board shall, at least annually
11 ~~shall but no more frequently than every six months~~, review
12 the status of a person other than a class "A" felon, a class
13 "B" felon serving a sentence of more than twenty-five years,
14 ~~or~~ a felon serving an offense punishable under section 902.9,
15 subsection 1, paragraph "a", or a felon serving a mandatory
16 minimum sentence other than a class "A" felon, and provide
17 the person with notice of the board's parole or work release
18 decision.

19 Sec. 19. Section 906.5, subsection 1, Code 2022, is amended
20 by adding the following new paragraph:

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

25 Sec. 20. Section 906.5, subsection 2, Code 2022, is amended
26 to read as follows:

27 2. It is the intent of the general assembly that the board
28 shall implement a plan of early release ~~in an effort to assist~~
29 ~~in controlling the prison population and assuring prison~~
30 ~~space for the confinement of offenders whose release would be~~
31 ~~detrimental to the citizens of this state~~ to ensure that parole
32 or work release is only ordered when in the best interest of
33 society, any victim of the person, and the person. The board
34 shall report to the legislative services agency on a monthly
35 basis concerning the implementation of this plan and the number

1 of inmates paroled pursuant to this plan and the average length
2 of stay of those paroled.

3 DIVISION VI

4 CRIME VICTIMS — RIGHTS

5 Sec. 21. Section 915.11, subsection 1, Code 2022, is amended
6 to read as follows:

7 1. a. A local police department or county sheriff's
8 department shall advise a victim of the right to
9 register with the county attorney, and shall provide a
10 request-for-registration form to each victim. A local police
11 department or county sheriff's department shall provide a
12 telephone number and internet site to each victim to register
13 with the automated victim notification system established
14 pursuant to section 915.10A.

15 b. A local police department or county sheriff's department
16 shall provide a victim with a pamphlet explaining the victim's
17 rights as a victim of a public offense or delinquent act.

18 Sec. 22. Section 915.20, Code 2022, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 1A. A local police department or county
21 sheriff's department shall provide to the crime victim
22 assistance division of the department of justice with the
23 contact information for a victim of a public offense or
24 delinquent act. A victim counselor shall contact a victim to
25 determine whether the victim is in need of further assistance
26 from the victim counselor or whether the victim has any
27 questions regarding the person's rights as a victim.

28 Sec. 23. Section 915.38, Code 2022, is amended by adding the
29 following new subsection:

30 NEW SUBSECTION. 3A. a. It is the public policy of the
31 state that statements made by children to forensic interviewers
32 at child advocacy centers and child protection centers are
33 presumptively reliable and should be admitted into evidence in
34 the courts.

35 b. Notwithstanding any other provision of law, the court

1 shall upon motion of a party admit a recorded statement of a
2 child as defined in section 702.5, if all of the following
3 apply:

4 (1) The recorded statement describes conduct that violates
5 chapter 709 or describes circumstances relevant to such
6 conduct.

7 (2) The recorded statement was obtained by a forensic
8 interviewer employed by an accredited child advocacy center or
9 child protection center.

10 (3) The interview was conducted substantially in accordance
11 with a nationally recognized protocol for interviewing
12 children.

13 (4) The recorded statement is offered in a criminal
14 proceeding, the opposing party was given at least ten days'
15 notice prior to the trial commencing of the intention to admit
16 the recorded statement, and any of the following apply:

17 (a) The child testifies at trial.

18 (b) The child has been questioned by the defendant or the
19 defendant's attorney at a deposition or at any substantially
20 similar setting.

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

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

27 *c.* A court may deny the admission of a recorded statement
28 under this section only if the party opposing the admission
29 proves by clear and convincing evidence that the recorded
30 statement is unreliable.

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

33 (1) By agreement of the parties.

34 (2) By order of the court, if the court finds by a
35 preponderance of the evidence that redaction is necessary to

1 either:

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

3 (b) Effectuate a provision of the rules of evidence other
4 than the rules against hearsay.

5 Sec. 24. NEW SECTION. 915.44A **Limitation of evidence in**
6 **sexual abuse cases.**

7 A defendant charged with a criminal offense for sexual
8 abuse under chapter 709 or who has filed an application for
9 postconviction relief upon conviction for a sexual offense
10 under chapter 709 shall be precluded from questioning any
11 victim regarding evidence which is inadmissible under rule
12 of evidence 5.412. Prohibited evidence includes all of the
13 following:

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

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

18 Sec. 25. COMMISSION ON CONTINUING LEGAL EDUCATION —
19 CONTINUING LEGAL EDUCATION REQUIREMENTS. The commission on
20 continuing legal education shall amend Iowa court rule 42.2 to
21 require all attorneys licensed in this state complete a minimum
22 of one hour, annually, of continuing legal education that
23 focuses on crime victims and how to improve a crime victim's
24 experience within the criminal justice system.

25 DIVISION VII

26 REQUIRED REPORTS TO THE GENERAL ASSEMBLY

27 Sec. 26. NEW SECTION. 602.6204 **Reporting requirement.**

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

31 1. The number of deferred judgments, deferred sentences,
32 and suspended sentences the court entered, including the
33 criminal offenses involved, during the previous year.

34 2. The number of defendants who received deferred
35 judgments, deferred sentences, and suspended sentences during

1 the previous year.

2 3. The number of cases where the court pronounced judgment
3 and imposed sentence after a defendant failed to comply with
4 the conditions set by the court for a deferred judgment or
5 deferred sentence.

6 4. The number of cases where the court revoked a suspended
7 sentence after a defendant failed to comply with conditions set
8 by the court.

9 5. The types of violations by a defendant of the conditions
10 imposed by the court that resulted in the court pronouncing
11 judgment and imposing sentence or revoking a suspended sentence
12 of a defendant. The report shall include information on
13 whether the violations were technical violations, due to the
14 commission of a new crime, or due to any other reason.

15 Sec. 27. NEW SECTION. 904.103A Recidivism — annual report.

16 1. The department, in cooperation with the board of parole,
17 shall submit to the governor and to the general assembly, not
18 later than December 15 each year, an annual report detailing
19 the recidivism rate in the state specifically for the violent
20 and sexual criminal offenses contained in section 902.12.

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

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

26 b. The percentage and number of offenders paroled or placed
27 on probation who violate the conditions of the offender's
28 release and are reincarcerated including information regarding
29 offenders who were returned for technical violations, and those
30 who were returned for the commission of a new crime.

31 c. Whether there were victims involved in the crimes
32 committed while an offender was paroled or on probation,
33 and whether any of the victims were previous victims of the
34 offender.

35 d. The types of offenses that caused the offender to be

S-5052 (Continued)

1 returned to the custody of the department.

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

4 f. The number of hearings the board of parole held before
5 the release of an offender who subsequently violated the
6 conditions of release and who was subsequently returned to the
7 custody of the department.>

8 2. Title page, by striking lines 1 and 2 and inserting <An
9 Act relating to criminal law including>

10 3. Title page, by striking lines 6 through 8 and inserting
11 <and work release, crime victim rights, and certain reporting
12 requirements, and making penalties applicable.>

13 4. By renumbering as necessary.

By HERMAN C. QUIRMBACH

S-5052 FILED MARCH 10, 2022

ADOPTED

SENATE FILE 2328

S-5054

1 Amend the amendment, S-5048, to Senate File 2328, as
2 follows:

3 1. Page 3, after line 23 by inserting:

4 <DIVISION ____
5 COURT PROCEDURE IN CIVIL CASES — STATUTES OF LIMITATIONS FOR
6 CERTAIN CIVIL ACTIONS

7 Sec. ____ . Section 602.1205, Code 2022, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 3. *a.* The district court shall try civil
10 cases in the order in which cases are initiated by the filing
11 of a petition, provided that the following cases shall be
12 entitled to a preference:

13 (1) Actions that have been revived pursuant to section
14 614.1, subsection 12, paragraph "b", or section 614.8A,
15 subsection 2.

16 (2) An action in which the interests of justice, as
17 determined by the supreme court, will be served by early trial.

18 *b.* The court shall adopt rules to implement this subsection.

19 *c.* Unless the court otherwise orders, notice of a motion
20 for preference shall be served with the petition by the party
21 serving the petition, or ten days after such service by any
22 other party.

23 Sec. ____ . Section 614.1, subsection 12, Code 2022, is
24 amended to read as follows:

25 12. *a.* (1) *Sexual abuse or sexual exploitation by a*
26 *counselor, therapist, school employee, or adult providing*
27 *training or instruction. An If the victim was eighteen years*
28 *of age or older, an action for damages for injury suffered*
29 *as a result of sexual abuse, as defined in section 709.1, by*
30 *a counselor, therapist, school employee, or adult providing*
31 *training or instruction, as defined in section 709.15, or as a*
32 *result of sexual exploitation by a counselor, therapist, school*
33 *employee, or adult providing training or instruction shall*
34 *be brought within five years of the date the victim was last*
35 *treated by the counselor or therapist, or within five years*

1 of the date the victim was last enrolled in or attended the
2 school.

3 (2) If the victim was a minor, an action for damages for
4 injury suffered as a result of sexual abuse, as defined in
5 section 709.1, by a counselor, therapist, or school employee,
6 as defined in section 709.15, or as a result of sexual
7 exploitation by a counselor, therapist, or school employee may
8 be brought at any time.

9 b. (1) Notwithstanding paragraph "a", subparagraph (2),
10 every claim or cause of action brought against any party
11 alleging intentional or negligent acts or omissions by a person
12 for physical, psychological, or other injury or condition
13 suffered as a result of conduct which would constitute sexual
14 abuse as defined in section 709.1, by a counselor, therapist,
15 or school employee as defined in section 709.15, or as a
16 result of sexual exploitation by a counselor, therapist, or
17 school, which is barred as of the effective date of this Act
18 because the applicable period of limitation has expired or
19 the plaintiff previously failed to file a petition, is hereby
20 revived, and action thereon may be commenced not later than
21 three years after the effective date of this Act.

22 (2) Dismissal of a previous action, ordered before the
23 effective date of this Act, on grounds that such previous
24 action was time-barred, or of failure of a party to file a
25 petition, shall not be grounds for dismissal of a revival
26 action pursuant to this paragraph.

27 Sec. ____ . Section 614.8, Code 2022, is amended to read as
28 follows:

29 **614.8 Minors and persons with mental illness.**

30 1. The Except as provided in section 614.1, subsection
31 12, or section 614.8A, the times limited for actions in this
32 chapter, or for complaints or claims in chapter 216, 669, or
33 670, except those brought for penalties and forfeitures, are
34 extended in favor of persons with mental illness, so that they
35 shall have one year from and after the termination of the

1 disability within which to file a complaint pursuant to chapter
2 216, to make a claim pursuant to chapter 669 or 670, or to
3 otherwise commence an action.

4 2. Except as provided in section 614.1, subsection 9 or
5 12, or section 614.8A, the times limited for actions in this
6 chapter, or for complaints or claims in chapter 216, 659A, 669,
7 or 670, except those brought for penalties and forfeitures, are
8 extended in favor of minors, so that they shall have one year
9 from and after attainment of majority within which to file a
10 complaint pursuant to chapter 216, to make a claim pursuant to
11 chapter 669, or to otherwise commence an action.

12 Sec. _____. Section 614.8A, Code 2022, is amended to read as
13 follows:

14 **614.8A Damages Commencement of action for minor or child**
15 **sexual abuse and other sexual offenses — no time limitation.**

16 ~~An action for damages for injury suffered as a result of~~
17 ~~sexual abuse which occurred when the injured person was a~~
18 ~~child, but not discovered until after the injured person is of~~
19 ~~the age of majority, shall be brought within four years from~~
20 ~~the time of discovery by the injured party of both the injury~~
21 ~~and the causal relationship between the injury and the sexual~~
22 ~~abuse.~~

23 1. Notwithstanding the times limited for actions in this
24 chapter, an action relating to injuries suffered as a result of
25 sexual abuse as defined in section 802.2, and injuries suffered
26 as a result of other sexual offenses including lascivious acts
27 with a child in violation of section 709.8, assault with intent
28 to commit sexual abuse in violation of section 709.11, indecent
29 contact with a child in violation of section 709.12, lascivious
30 conduct with a minor in violation of section 709.14, sexual
31 misconduct with a juvenile in violation of section 709.16,
32 subsection 2, child endangerment in violation of section 726.6,
33 or sexual exploitation of a minor in violation of section
34 728.12, which occurred when the injured party was a minor may
35 be brought at any time.

1 2. a. Notwithstanding subsection 1, every claim or cause
2 of action brought against any party alleging intentional
3 or negligent acts or omissions by a person for physical,
4 psychological, or other injury or condition suffered as a
5 result of conduct which would constitute sexual abuse as
6 defined in section 709.1, by a counselor, therapist, or school
7 employee as defined in section 709.15, subsection 1, or as a
8 result of sexual exploitation by a counselor, therapist, or
9 school, which is barred as of the effective date of this Act
10 because the applicable period of limitation has expired or
11 the plaintiff previously failed to file a petition, is hereby
12 revived, and action thereon may be commenced not later than
13 three years after the effective date of this Act.

14 b. Dismissal of a previous action, ordered before the
15 effective date of this Act, on grounds that such previous
16 action was time-barred, or of failure of a party to file a
17 petition, shall not be grounds for dismissal of a revival
18 action pursuant to this section.>

19 2. Page 3, line 29, after <conditional guilty pleas,>
20 by inserting <court procedure in civil cases, statutes of
21 limitations in civil actions,>

By JANET PETERSEN

[S-5054](#) FILED MARCH 10, 2022

RULED OUT OF ORDER

SENATE FILE 2328

S-5058

1 Amend the amendment, S-5052, to Senate File 2328, as
2 follows:

3 1. By striking page 1, line 1, through page 17, line 13, and
4 inserting:

5 <Amend Senate File 2328 as follows:

6 1. By striking everything after the enacting clause and
7 inserting:

8

<DIVISION I

9 COMMUNICATIONS IN PROFESSIONAL CONFIDENCE — CRIMINAL ACTIONS

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

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

18

DIVISION II

19

NO-CONTACT ORDERS

20 Sec. 2. Section 664A.8, Code 2022, is amended to read as
21 follows:

22 **664A.8 Extension of no-contact order.**

23 ~~Upon the filing of an application by the state or by the~~
24 ~~victim of any public offense referred to in section 664A.2,~~
25 ~~subsection 1 which is filed within ninety days prior to the~~
26 ~~expiration of a modified no-contact order, the~~ The court shall
27 modify and extend the no-contact order upon the expiration of
28 the no-contact order for an additional period of five years,
29 unless, upon the filing of an application by the defendant
30 within ninety days prior to the expiration of a modified
31 no-contact order, the court finds that the defendant no longer
32 poses a threat to the safety of the victim, persons residing
33 with the victim, or members of the victim's family. The number
34 of modifications extending the no-contact order permitted by
35 this section is not limited.

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DIVISION III

DOMESTIC ABUSE ASSAULT PENALTIES

Sec. 3. Section 708.2A, subsection 6, paragraph a, Code 2022, is amended by striking the paragraph.

DIVISION IV

LIMITATION OF CRIMINAL ACTIONS INVOLVING CERTAIN SEXUAL OFFENSES

Sec. 4. Section 802.2B, Code 2022, is amended by adding the following new subsections:

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

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

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

Sec. 5. Section 802.2C, Code 2022, is amended to read as follows:

802.2C Kidnapping.

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

DIVISION V

CRIMINAL SENTENCING AND CORRECTIONS

Sec. 6. Section 901.4B, subsection 2, Code 2022, is amended to read as follows:

2. After hearing any statements presented pursuant to

1 subsection 1, and before imposing sentence, the court shall
2 address any victim of the crime who is physically present at
3 the sentencing and shall ~~allow~~ do all of the following:

4 a. Ask any victim or representative of the victim whether
5 the victim has been informed by the prosecuting attorney or the
6 prosecuting attorney's designee of the status of the case and
7 of the prosecuting attorney's recommendation for sentencing.

8 b. Allow any victim to be reasonably heard, including but
9 not limited to by presenting a victim impact statement in the
10 manner described in section 915.21.

11 Sec. 7. Section 901.8, Code 2022, is amended to read as
12 follows:

13 **901.8 Consecutive sentences.**

14 1. If a person is sentenced for two or more separate
15 offenses, the sentencing judge may order the second or further
16 sentence to begin at the expiration of the first or succeeding
17 sentence.

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

27 3. If a person is sentenced for two or more separate
28 offenses contained in section 902.12, subsection 1, and one or
29 more of the convictions is for an offense under chapter 709
30 or chapter 710, the sentencing judge shall require that the
31 sentences be served consecutively.

32 4. Except as otherwise provided in section 903A.7, if
33 consecutive sentences are specified in the order of commitment,
34 the several terms shall be construed as one continuous term of
35 imprisonment.

1 Sec. 8. Section 901.11, subsections 2, 3, 4, and 5, Code
2 2022, are amended to read as follows:

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

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

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

28 5. At the time of sentencing, the court shall determine when
29 a person convicted of arson in the first degree as described
30 in section 902.12, subsection 5 6, shall first become eligible
31 for parole or work release within the parameters specified
32 in section 902.12, subsection 5 6, based upon all pertinent
33 information including the person's criminal record, a validated
34 risk assessment, and the negative impact the offense has had
35 on the victim or other persons.

1 Sec. 9. NEW SECTION. 902.9A **Minimum sentence — certain**
2 **felonies.**

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

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

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

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

14 Sec. 10. Section 902.12, Code 2022, is amended to read as
15 follows:

16 **902.12 Minimum sentence for certain felonies — eligibility**
17 **for parole or work release.**

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

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

24 b. Assault in violation of chapter 708.

25 c. Terrorism in violation of chapter 708A.

26 d. Sexual abuse in violation of chapter 709.

27 e. Kidnapping or related offenses in violation of chapter
28 710.

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

31 g. Robbery, aggravated theft, or extortion in violation of
32 chapter 711.

33 h. Arson in violation of chapter 712.

34 i. Burglary in violation of chapter 713, except for a
35 violation of section 713.7.

1 j. Criminal gang participation or gang recruitment in
2 violation of chapter 723A.

3 k. Sexual exploitation of a minor in violation of section
4 728.12.

5 ~~1.~~ 2. A person serving a sentence for conviction of any of
6 the following felonies, ~~including a person serving a sentence~~
7 ~~for conviction of the following felonies~~ that occur prior to
8 July 1, ~~2003~~ 2022, shall be denied parole or work release
9 unless the person has served at least seven-tenths of the
10 maximum term of the person's sentence:

11 a. Murder in the second degree in violation of section
12 707.3.

13 b. Attempted murder in violation of section 707.11, except
14 as provided in section 707.11, subsection 5.

15 c. Sexual abuse in the second degree in violation of section
16 709.3.

17 d. Kidnapping in the second degree in violation of section
18 710.3.

19 e. Robbery in the second degree in violation of section
20 711.3, except as determined in subsection ~~4~~ 5.

21 f. Vehicular homicide in violation of section 707.6A,
22 subsection 1 or 2, if the person was also convicted under
23 section 321.261, subsection 4, based on the same facts or
24 event that resulted in the conviction under section 707.6A,
25 subsection 1 or 2.

26 ~~2.~~ 3. A person serving a sentence for a conviction of
27 child endangerment as defined in section 726.6, subsection
28 1, paragraph "b", that is described and punishable under
29 section 726.6, subsection 5, shall be denied parole or work
30 release until the person has served between three-tenths and
31 seven-tenths of the maximum term of the person's sentence as
32 determined under section 901.11, subsection 2.

33 ~~3.~~ 4. A person serving a sentence for a conviction for
34 robbery in the first degree in violation of section 711.2 for
35 a conviction that occurs ~~on or after July 1, 2018~~ prior to

1 July 1, 2022, shall be denied parole or work release until
2 the person has served between one-half and seven-tenths of
3 the maximum term of the person's sentence as determined under
4 section 901.11, subsection 3.

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

12 ~~5.~~ 6. A person serving a sentence for a conviction for
13 arson in the first degree in violation of section 712.2 that
14 occurs ~~on or after July 1, 2019~~ prior to July 1, 2022, shall
15 be denied parole or work release until the person has served
16 between one-half and seven-tenths of the maximum term of
17 the person's sentence as determined under section 901.11,
18 subsection 5.

19 Sec. 11. Section 903A.2, subsection 1, paragraph c, Code
20 2022, is amended to read as follows:

21 c. Category "C" sentences are those sentences for attempted
22 murder described in section 707.11, subsection 5, and sentences
23 for the offenses described in section 902.12, subsection 1.
24 Notwithstanding ~~paragraphs~~ paragraph "a" or "b", an inmate
25 serving a category "C" sentence is ineligible for a reduction
26 of sentence under this section.

27 DIVISION VI

28 PAROLE AND WORK RELEASE

29 Sec. 12. Section 906.4, subsection 1, Code 2022, is amended
30 to read as follows:

31 1. A parole or work release shall be ordered only for
32 the best interest of society, any victim of the person, and
33 the offender person, not as an award of clemency. The board
34 shall release on parole or work release any person whom it
35 has the power to so release, only when in its opinion there

1 is ~~reasonable~~ a significant probability that the person can
2 be released without detriment to the community, any victim
3 of the person, or to the person. A person's release is not
4 a detriment to the community, any victim of the person,
5 or the person if the person is able and willing to fulfill
6 the obligations of a law-abiding citizen, in the board's
7 determination.

8 Sec. 13. Section 906.5, subsection 1, paragraph a, Code
9 2022, is amended to read as follows:

10 a. The board shall establish and implement a plan by which
11 the board systematically reviews the status of each person who
12 has been committed to the custody of the director of the Iowa
13 department of corrections and considers the person's prospects
14 for parole or work release. The board shall, at least annually
15 shall but no more frequently than every six months, review
16 the status of a person other than a class "A" felon, a class
17 "B" felon serving a sentence of more than twenty-five years,
18 ~~or~~ a felon serving an offense punishable under section 902.9,
19 subsection 1, paragraph "a", or a felon serving a mandatory
20 minimum sentence other than a class "A" felon, and provide
21 the person with notice of the board's parole or work release
22 decision.

23 Sec. 14. Section 906.5, subsection 1, Code 2022, is amended
24 by adding the following new paragraph:

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

29 Sec. 15. Section 906.5, subsection 2, Code 2022, is amended
30 to read as follows:

31 2. It is the intent of the general assembly that the board
32 shall implement a plan of early release ~~in an effort to assist~~
33 ~~in controlling the prison population and assuring prison~~
34 ~~space for the confinement of offenders whose release would be~~
35 ~~detrimental to the citizens of this state~~ to ensure that parole

1 or work release is only ordered when in the best interest of
2 society, any victim of the person, and the person. The board
3 shall report to the legislative services agency on a monthly
4 basis concerning the implementation of this plan and the number
5 of inmates paroled pursuant to this plan and the average length
6 of stay of those paroled.

7 DIVISION VII

8 CRIME VICTIMS — RIGHTS

9 Sec. 16. Section 915.11, subsection 1, Code 2022, is amended
10 to read as follows:

11 1. a. A local police department or county sheriff's
12 department shall advise a victim of the right to
13 register with the county attorney, and shall provide a
14 request-for-registration form to each victim. A local police
15 department or county sheriff's department shall provide a
16 telephone number and internet site to each victim to register
17 with the automated victim notification system established
18 pursuant to section 915.10A.

19 b. A local police department or county sheriff's department
20 shall provide a victim with a pamphlet explaining the victim's
21 rights as a victim of a public offense or delinquent act.

22 Sec. 17. Section 915.20, Code 2022, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 1A. A local police department or county
25 sheriff's department shall provide to the crime victim
26 assistance division of the department of justice with the
27 contact information for a victim of a public offense or
28 delinquent act. A victim counselor shall contact a victim to
29 determine whether the victim is in need of further assistance
30 from the victim counselor or whether the victim has any
31 questions regarding the person's rights as a victim.

32 Sec. 18. Section 915.38, Code 2022, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 3A. a. It is the public policy of the
35 state that statements made by children to forensic interviewers

1 at child advocacy centers and child protection centers are
2 presumptively reliable and should be admitted into evidence in
3 the courts.

4 *b.* Notwithstanding any other provision of law, the court
5 shall upon motion of a party admit a recorded statement of a
6 child as defined in section 702.5, if all of the following
7 apply:

8 (1) The recorded statement describes conduct that
9 constitutes a public offense committed against or involving a
10 child, or describes circumstances relevant to such conduct.

11 (2) The recorded statement was obtained by a forensic
12 interviewer employed by an accredited child advocacy center or
13 child protection center.

14 (3) The interview was conducted substantially in accordance
15 with a nationally recognized protocol for interviewing
16 children.

17 (4) The recorded statement is offered in a criminal
18 proceeding, the opposing party was given at least ten days'
19 notice prior to the trial commencing of the intention to admit
20 the recorded statement, and any of the following apply:

21 (a) The child testifies at trial.

22 (b) The child has been questioned by the defendant or the
23 defendant's attorney at a deposition or at any substantially
24 similar setting.

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

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

31 *c.* A court may deny the admission of a recorded statement
32 under this section only if the party opposing the admission
33 proves by clear and convincing evidence that the recorded
34 statement is unreliable.

35 *d.* Portions of a recorded interview admitted pursuant to

1 this section may be redacted under the following circumstances:

2 (1) By agreement of the parties.

3 (2) By order of the court, if the court finds by a
4 preponderance of the evidence that redaction is necessary to
5 either:

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

7 (b) Effectuate a provision of the rules of evidence other
8 than the rules against hearsay.

9 Sec. 19. NEW SECTION. 915.44A **Limitation of evidence in**
10 **sexual abuse cases.**

11 A defendant charged with a criminal offense under chapter
12 709 who has filed an application for postconviction relief
13 upon conviction for a criminal offense under chapter 709 shall
14 be precluded from questioning any victim or any other person
15 regarding evidence which is inadmissible under rule of evidence
16 5.412 or any other successor provision. Prohibited evidence
17 includes all of the following:

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

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

22 3. Evidence of a victim's sexual predisposition.

23 Sec. 20. COMMISSION ON CONTINUING LEGAL EDUCATION —
24 CONTINUING LEGAL EDUCATION REQUIREMENTS. The supreme court
25 shall amend Iowa court rule 42.2 to require all attorneys
26 licensed in this state to complete a minimum of one hour,
27 annually, of continuing legal education that focuses on crime
28 victims and how to improve a crime victim's experience within
29 the criminal justice system.

30 DIVISION VIII

31 DISCOVERY

32 Sec. 21. NEW SECTION. 821A.1 **Subpoenas in criminal actions.**

33 1. A criminal defendant or counsel acting on the defendant's
34 behalf shall not issue any subpoena for documents or other
35 evidence except upon application to the court. Such an

1 application shall not be granted unless a defendant proves by a
2 preponderance of the evidence all of the following:

3 *a.* The evidence is material and necessary to prepare a
4 defense.

5 *b.* The defendant has made reasonable efforts to obtain the
6 evidence without invoking compulsory process.

7 *c.* The evidence is not available from any other source.

8 *d.* For evidence that is obtainable by the state only through
9 the execution of a search warrant, the defendant must show
10 probable cause that the information sought contains exculpatory
11 information that is not available from any other source and
12 that there is a compelling need for the evidence to enable the
13 defendant to present a defense at trial.

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

17 3. An application made pursuant to this section shall not
18 be filed *ex parte*.

19 4. This section shall not apply to a subpoena issued solely
20 to secure the presence of a witness listed in the minutes of
21 testimony at an authorized deposition or to secure the presence
22 of a witness listed in either the minutes of testimony or in
23 the defendant's witness list submitted for a hearing or trial.

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

27 6. If any documents or evidence are obtained pursuant to
28 this section, the criminal defendant or counsel acting on the
29 defendant's behalf must notify the prosecuting attorney within
30 twenty-four hours of obtaining the documents or evidence. The
31 documents or evidence received, or copies of the same, must be
32 provided to the prosecuting attorney as soon as possible.

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

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

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

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

9 Sec. 22. NEW SECTION. **821A.2 Discovery depositions in**
10 **criminal actions — witness lists.**

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

14 2. A criminal defendant must file a witness list when the
15 defendant requests or receives any discretionary discovery, the
16 date when any deposition is taken, or ten days before trial,
17 whichever date is earliest. If the defendant fails to timely
18 list a witness, the court shall prohibit the witness from
19 testifying at trial absent good cause shown for the defendant's
20 failure to timely list the witness.

21 3. A person who is not yet a party to a criminal action
22 shall not be permitted to depose another person until the time
23 the person who is not yet a party to the criminal action is
24 charged with or indicted for the associated criminal offense.

25 DIVISION IX

26 POSTCONVICTION RELIEF AND DISCOVERY PROCEDURE

27 Sec. 23. Section 822.7, Code 2022, is amended to read as
28 follows:

29 **822.7 Court to hear application.**

30 The application shall be heard in, and before any judge
31 of the court in which the conviction or sentence took place.
32 However, if the applicant is seeking relief under section
33 822.2, subsection 1, paragraph "f", the application shall be
34 heard in, and before any judge of the court of the county
35 in which the applicant is being confined. A record of the

1 proceedings shall be made and preserved. All rules and
2 statutes applicable in civil proceedings ~~including pretrial~~
3 ~~and discovery procedures~~ are available to the parties, subject
4 to the restrictions contained in section 822.7A. The court
5 may receive proof of affidavits, depositions, oral testimony,
6 or other evidence, and may order the applicant brought before
7 it for the hearing. If the court finds in favor of the
8 applicant, it shall enter an appropriate order with respect to
9 the conviction or sentence in the former proceedings, and any
10 supplementary orders as to rearraignment, retrial, custody,
11 bail, discharge, correction of sentence, or other matters that
12 may be necessary and proper. The court shall make specific
13 findings of fact, and state expressly its conclusions of law,
14 relating to each issue presented. This order is a final
15 judgment.

16 Sec. 24. NEW SECTION. **822.7A Postconviction relief —**
17 **discovery.**

18 This chapter is intended to provide a limited scope of
19 discovery that is no broader than what is afforded to a
20 defendant in a criminal action. Notwithstanding any other
21 statute, rule, or law, the following limitations on discovery
22 and procedure shall apply to a claim for postconviction relief
23 under this chapter.

24 1. An applicant may conduct discovery only by order of the
25 court to be granted upon a showing that the information sought
26 is reasonably calculated to lead to the discovery of admissible
27 evidence to support or defeat a claim that is adequately
28 pled in the application and, if taken as true, constitutes a
29 colorable claim for relief.

30 2. An applicant shall not be permitted to depose or
31 otherwise conduct discovery upon the victim, as defined in
32 section 915.10, of the underlying public offense, unless the
33 applicant proves all of the following by clear and convincing
34 evidence:

35 a. The evidence is necessary to prove the applicant is

1 actually innocent of the underlying public offense and all
2 lesser-included offenses.

3 *b.* The information is not available from any other source.

4 *c.* Contact with a victim is minimized by limitations on
5 the method of discovery including in camera review, remote
6 testimony, or allowing a victim to provide a written statement
7 in lieu of testimony.

8 3. The privileges contained in section 622.10 shall be
9 absolute, except that the filing of an application shall waive
10 any privilege an applicant may claim regarding an attorney who
11 represented the applicant in the underlying criminal action or
12 any previous postconviction action.

13 4. Evidence that would be excluded in a criminal action
14 pursuant to rule of evidence 5.412 shall not be discoverable or
15 admissible in a postconviction action.

16 5. The state shall not be required to produce copies of
17 discovery that was previously disclosed to an applicant in the
18 underlying criminal action or a previous postconviction relief
19 action or which the applicant was in possession of in the
20 underlying criminal action or a previous postconviction action.

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

23 7. The state shall not be required to produce any discovery
24 that cannot be lawfully disseminated or that is otherwise
25 confidential by law.

26 8. An applicant shall not be permitted to conduct discovery
27 or seek the appointment of an expert witness through *ex parte*
28 communication or in camera review.

29 9. Depositions shall only be permitted upon a showing of
30 exceptional circumstances, except that the applicant's criminal
31 trial counsel may be deposed by the respondent upon request or
32 by the applicant pursuant to subsection 1 and a victim may only
33 be deposed pursuant to subsection 2.

34

DIVISION X

35

REQUIRED REPORTS TO THE GENERAL ASSEMBLY

1 Sec. 25. NEW SECTION. **602.6204 Reporting requirement.**

2 The state court administrator shall submit to the governor
3 and to the general assembly, not later than December 15 each
4 year, an annual report which shall include, for the violent and
5 sexual criminal offenses listed in section 902.12, all of the
6 following:

7 1. The number of deferred judgments, deferred sentences,
8 and suspended sentences the court entered, including the
9 criminal offenses involved, during the previous year.

10 2. The number of defendants who received deferred
11 judgments, deferred sentences, and suspended sentences during
12 the previous year.

13 3. The number of cases where the court pronounced judgment
14 and imposed sentence after a defendant failed to comply with
15 the conditions set by the court for a deferred judgment or
16 deferred sentence.

17 4. The number of cases where the court revoked a suspended
18 sentence after a defendant failed to comply with conditions set
19 by the court.

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

26 Sec. 26. NEW SECTION. **904.103A Recidivism — annual report.**

27 1. The department, in cooperation with the board of parole,
28 shall submit to the governor and to the general assembly, not
29 later than December 15 each year, an annual report detailing
30 the recidivism rate in the state specifically for the violent
31 and sexual criminal offenses contained in section 902.12.

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

34 a. The rate of recidivism, including the percentage and
35 number of offenders who committed another crime within three

1 years of being released from the custody of the department.

2 *b.* The percentage and number of offenders paroled or placed
3 on probation who violate the conditions of the offender's
4 release and are reincarcerated including information regarding
5 offenders who were returned for technical violations, and those
6 who were returned for the commission of a new crime.

7 *c.* Whether there were victims involved in the crimes
8 committed while an offender was paroled or on probation,
9 and whether any of the victims were previous victims of the
10 offender.

11 *d.* The types of offenses that caused the offender to be
12 returned to the custody of the department.

13 *e.* The type of release that preceded the offender's return
14 to the custody of the department.

15 *f.* The number of hearings the board of parole held before
16 the release of an offender who subsequently violated the
17 conditions of release and who was subsequently returned to the
18 custody of the department.

19 DIVISION XI

20 CONDITIONAL GUILTY PLEAS

21 Sec. 27. NEW SECTION. 814.30 Conditional guilty pleas not
22 allowed.

23 A conditional guilty plea that reserves the right to
24 appellate review of an adverse determination of a specified
25 pretrial motion shall not be allowed.>>

26 2. Title page, by striking lines 1 through 3 and inserting
27 <An Act relating to criminal law including the disclosure of a
28 defendant's privileged records in a criminal action, no-contact
29 orders, penalties for domestic abuse>

30 3. Title page, by striking lines 7 and 8 and inserting
31 <actions, postconviction relief procedure, certain reporting
32 requirements, conditional guilty pleas, and making penalties
33 applicable.>

By JEFF REICHMAN

S-5058 (Continued)

[S-5058](#) FILED MARCH 10, 2022

ADOPTED

S-5056

1 Amend Senate File 2333 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <DIVISION I

5 CONTROLLABLE ELECTRONIC RECORDS

6 Section 1. NEW SECTION. 554.14101 Short title.

7 This Article may be cited as the Uniform Commercial Code —
8 Controllable Electronic Records.

9 Sec. 2. NEW SECTION. 554.14102 Definitions.

10 1. Article 14 definitions. In this Article:

11 *a. "Controllable electronic record"* means a record stored
12 in an electronic medium that can be subjected to control
13 under section 554.14105. The term does not include a deposit
14 account, electronic chattel paper, electronic copy of a
15 record evidencing chattel paper, electronic document of title,
16 electronic money, investment property, or a transferable
17 record.

18 *b. "Qualifying purchaser"* means a purchaser of a
19 controllable electronic record or an interest in the
20 controllable electronic record that obtains control of the
21 controllable electronic record for value, in good faith,
22 and without notice of a claim of a property right in the
23 controllable electronic record.

24 *c. "Transferable record"* means:

25 (1) *"Transferable record"*, as defined in the federal
26 Electronic Signatures in Global and National Commerce Act, 15
27 U.S.C. §7021(a)(1), as amended.

28 (2) *"Transferable record"* as defined in the uniform
29 electronic transactions Act, section 554D.118, subsection 1.

30 *d. "Value"* has the meaning provided in section 554.3303,
31 subsection 1.

32 2. Definitions in Article 9. The definitions in Article
33 9 of *"account debtor"*, *"authenticate"*, *"controllable account"*,
34 *"controllable payment intangible"*, *"chattel paper"*, *"deposit*
35 *account"*, *"electronic chattel paper"*, *"electronic money"*, and

1 *“investment property”* apply to this Article.

2 Sec. 3. NEW SECTION. 554.14103 **Scope.**

3 1. *Article 9 governs in case of conflict.* If there is
4 conflict between this Article and Article 9, Article 9 governs.

5 2. *Applicable consumer law and other laws.* A transaction
6 subject to this Article is subject to:

7 a. any applicable rule of law that establishes a different
8 rule for consumers, including as provided in chapter 537 and
9 any other consumer protection statute or regulation of this
10 state; and

11 b. any other statute or regulation of this state that
12 regulates the rates, charges, agreements, and practices for
13 loans, credit sales, or other extensions of credit or credit
14 transactions, including as provided in chapter 535.

15 Sec. 4. NEW SECTION. 554.14104 **Rights in controllable**
16 **account, controllable electronic record, and controllable payment**
17 **intangible.**

18 1. *Applicability of section to controllable account and*
19 *controllable payment intangible.* This section applies to the
20 acquisition and purchase of rights in a controllable account
21 or controllable payment intangible, including the rights of
22 a purchaser and a qualifying purchaser and under subsections
23 3, 4, and 6, and in the same manner this section applies to a
24 controllable electronic record.

25 2. *Applicability of other law to acquisition of*
26 *rights.* Except as provided in this section, law other than
27 this Article determines whether a person acquires a right in
28 a controllable electronic record and the right the person
29 acquires.

30 3. *Shelter principle and purchase of limited interest.* A
31 purchaser of a controllable electronic record acquires
32 all rights in the controllable electronic record that the
33 transferor had or had power to transfer, except that a
34 purchaser of a limited interest in a controllable electronic
35 record acquires rights only to the extent of the interest

1 purchased.

2 4. *Rights of qualifying purchaser.* A qualifying purchaser
3 acquires its rights in the controllable electronic record free
4 of a claim of a property right in the controllable electronic
5 record.

6 5. *Limitation of rights of qualifying purchaser in other*
7 *property.* Except as provided in subsections 1 and 4 for
8 controllable accounts and controllable payment intangibles or
9 law other than this Article, a qualifying purchaser takes a
10 right to payment, right to performance, or interest in property
11 evidenced by the controllable electronic record subject to a
12 claim of a property right in the right to payment, right to
13 performance, or other interest in property.

14 6. *No-action protection for qualifying purchaser.* An action
15 shall not be asserted against a qualifying purchaser based on
16 both a purchase by the qualifying purchaser of a controllable
17 electronic record and a claim of a property right in another
18 controllable electronic record, whether framed in conversion,
19 replevin, constructive trust, equitable lien, or other theory.

20 7. *Filing notice.* Filing of a financing statement under
21 Article 9 is not notice of a claim of a property right in a
22 controllable electronic record.

23 Sec. 5. NEW SECTION. 554.14105 **Control of controllable**
24 **electronic record.**

25 1. *General rule — control of controllable electronic*
26 *record.* A person has control of a controllable electronic
27 record if:

28 a. the electronic record, a record attached to or logically
29 associated with the electronic record, or a system in which the
30 electronic record is recorded gives the person:

31 (1) the power to avail itself of substantially all the
32 benefit from the electronic record; and

33 (2) exclusive power, subject to subsection 2, to:

34 (a) prevent others from availing themselves of
35 substantially all the benefit from the electronic record; and

1 (b) transfer control of the electronic record to another
2 person or cause another person to obtain control of another
3 controllable electronic record as a result of the transfer of
4 the electronic record; and

5 b. the electronic record, a record attached to or logically
6 associated with the electronic record, or a system in which
7 the electronic record is recorded enables the person readily
8 to identify itself in any way, including by name, identifying
9 number, cryptographic key, office, or account number, as having
10 the powers specified in paragraph "a".

11 2. *Control through another person.* A person has control of
12 a controllable electronic record if another person, other than
13 the transferor of an interest in the electronic record:

14 a. has control of the electronic record and acknowledges
15 that it has control on behalf of the person, or

16 b. obtains control of the electronic record after having
17 acknowledged that it will obtain control of the electronic
18 record on behalf of the person.

19 3. *Meaning of exclusive.* A power specified in subsection 1,
20 paragraph "a", subparagraph (2), is exclusive, even if:

21 a. the controllable electronic record or a system in
22 which the electronic record is recorded limits the use of
23 the electronic record or has a protocol programmed to cause
24 a change, including a transfer or loss of control or a
25 modification of benefits afforded by the electronic record; or

26 b. the person has agreed to share the power with another
27 person.

28 Sec. 6. NEW SECTION. 554.14106 Discharge of account debtor
29 on controllable account or controllable payment intangible.

30 1. *Discharge of account debtor.* An account debtor on a
31 controllable account or controllable payment intangible may
32 discharge its obligation by paying:

33 a. the person having control of the controllable electronic
34 record that evidences the controllable account or controllable
35 payment intangible; or

1 *b.* except as provided in subsection 2, a person that
2 formerly had control of the controllable electronic record.

3 2. *Effect of notification.* Subject to subsection 4, an
4 account debtor shall not discharge its obligation by paying a
5 person that formerly had control of the controllable electronic
6 record if the account debtor receives a notification that:

7 *a.* is authenticated by a person that formerly had control or
8 the person to which control was transferred;

9 *b.* reasonably identifies the controllable account or
10 controllable payment intangible;

11 *c.* notifies the account debtor that control of the
12 controllable electronic record that evidences the controllable
13 account or controllable payment intangible was transferred;

14 *d.* identifies the transferee, in any reasonable way,
15 including by name, identifying number, cryptographic key,
16 office, or account number; and

17 *e.* provides a commercially reasonable method by which the
18 account debtor is to pay the transferee.

19 3. *Discharge following effective notification.* After
20 receipt of a notification that complies with subsection 2, the
21 account debtor may discharge its obligation only by paying in
22 accordance with the notification and shall not discharge the
23 obligation by paying a person that formerly had control.

24 4. *When notification ineffective.* Notification is
25 ineffective under subsection 2:

26 *a.* unless, before the notification is sent, an account
27 debtor and the person that, at that time, had control of the
28 controllable electronic record that evidences the controllable
29 account or controllable payment intangible agree in an
30 authenticated record to a commercially reasonable method by
31 which a person must furnish reasonable proof that control has
32 been transferred;

33 *b.* to the extent an agreement between an account debtor and
34 seller of a payment intangible limits the account debtor's duty
35 to pay a person other than the seller and the limitation is

1 effective under law other than this Article; or

2 *c.* at the option of an account debtor, if the notification
3 notifies the account debtor to:

4 (1) divide a payment;

5 (2) make less than the full amount of any installment or
6 other periodic payment; or

7 (3) pay any part of a payment by more than one method or to
8 more than one person.

9 5. *Proof of transfer of control.* If requested by the
10 account debtor, the person giving the notification seasonably
11 shall furnish reasonable proof, using the agreed method,
12 that control of the controllable electronic record has been
13 transferred. Unless the person complies with the request, the
14 account debtor may discharge its obligation by paying a person
15 that formerly had control, even if the account debtor has
16 received a notification under subsection 2.

17 6. *What constitutes reasonable proof.* A person furnishes
18 reasonable proof that control has been transferred if the
19 person demonstrates, using the agreed method, that the
20 transferee has the power to:

21 *a.* avail itself of substantially all the benefit from the
22 controllable electronic record;

23 *b.* prevent others from availing themselves of substantially
24 all the benefit from the controllable electronic record; and

25 *c.* transfer the powers mentioned in paragraphs "a" and "b"
26 to another person.

27 7. *Rights not waivable.* An account debtor shall not waive
28 or vary its rights under subsection 4, paragraph "a", and
29 subsection 5 or its option under subsection 4, paragraph "c".

30 Sec. 7. NEW SECTION. 554.14107 **Governing law.**

31 Unless otherwise agreed to by the parties, the laws of this
32 state shall govern any actions taken pursuant to this Article.
33 This Article and the local law of this state shall apply to
34 any transaction involving a controllable account, controllable
35 electronic record, or controllable payment intangible if

1 under section 554.9306A, the local law of this state governs
2 perfection, the effect of perfection or nonperfection, and the
3 priority of a security interest in such controllable account,
4 controllable electronic record, or controllable payment
5 intangible.

6 Sec. 8. NEW SECTION. 554.14108 **Applicability.**

7 This Article applies to any transaction involving a
8 controllable electronic record that arises on or after the
9 effective date of this Article. This Article does not apply to
10 any transaction involving a controllable electronic record that
11 arises before the effective date of this Article even if the
12 transaction would be subject to this Article if the transaction
13 had arisen on or after the effective date of this Article.
14 This Article does not apply to a right of action with regard to
15 any transaction involving a controllable electronic record that
16 has accrued before the effective date of this Article.

17 Sec. 9. NEW SECTION. 554.14109 **Savings clause.**

18 Any transaction involving a controllable electronic record
19 that arose before the effective date of this Article and
20 the rights, obligations, and interests flowing from that
21 transaction are governed by any statute or other rule amended
22 or repealed by this Article as if such amendment or repeal had
23 not occurred and may be terminated, completed, consummated, or
24 enforced under that statute or other rule.

25 DIVISION II

26 CORRESPONDING CHANGES

27 PART A

28 GENERAL PROVISIONS

29 Sec. 10. Section 554.1201, subsection 2, Code 2022, is
30 amended by adding the following new paragraph:

31 NEW PARAGRAPH. *0g.* "Electronic" means relating to
32 technology having electrical, digital, magnetic, wireless,
33 optical, electromagnetic, or similar capabilities.

34 Sec. 11. Section 554.1201, subsection 2, paragraph x, Code
35 2022, is amended to read as follows:

1 ~~or an instrument,~~ (i) chattel paper, (ii) commercial tort
2 claims, (iii) deposit accounts, (iv) investment property, (v)
3 letter-of-credit rights or letters of credit, ~~or~~ (vi) rights
4 to payment for money or funds advanced or sold, other than
5 rights arising out of the use of a credit or charge card or
6 information contained on or for use with the card, or (vii)
7 rights to payment evidenced by an instrument.

8 *bi.* "Payment intangible" means a general intangible
9 under which the account debtor's principal obligation is a
10 monetary obligation. The term includes a controllable payment
11 intangible.

12 Sec. 14. Section 554.9102, subsection 1, Code 2022, is
13 amended by adding the following new paragraphs:

14 NEW PARAGRAPH. *0ab.* "Controllable account" means an account
15 evidenced by a controllable electronic record that provides
16 that the account debtor undertakes to pay the person that under
17 section 554.14105 has control of the controllable electronic
18 record.

19 NEW PARAGRAPH. *00ab.* "Controllable payment intangible" means
20 a payment intangible evidenced by a controllable electronic
21 record that provides that the account debtor undertakes to pay
22 the person that under section 554.14105 has control of the
23 controllable electronic record.

24 NEW PARAGRAPH. *0af.* "Electronic money" means money that is
25 in an electronic form.

26 NEW PARAGRAPH. *0bc.* "Money" has the meaning provided in
27 section 554.1201, subsection 2, paragraph "x", but does not
28 include a deposit account.

29 NEW PARAGRAPH. *0cb.* "Tangible money" means money in a
30 tangible form.

31 Sec. 15. Section 554.9102, subsection 2, Code 2022, is
32 amended by adding the following new paragraphs:

33 NEW PARAGRAPH. *0i.* "Controllable electronic
34 record".....Section 554.14102.

35 NEW PARAGRAPH. *0ae.* "Qualifying

1 purchaser".....Section 554.14102.

2 Sec. 16. NEW SECTION. 554.9105A Control of electronic
3 money.

4 1. *General rule — control of electronic money.* A person has
5 control of electronic money if:

6 a. the electronic money or a system in which the electronic
7 money is recorded gives the person:

8 (1) the power to avail itself of substantially all the
9 benefit from the electronic money; and

10 (2) exclusive power, subject to subsection 2, to:

11 (a) prevent others from availing themselves of

12 substantially all the benefit from the electronic money; and

13 (b) transfer control of the electronic money to another

14 person or cause another person to obtain control of other

15 electronic money as a result of the transfer of the electronic
16 money; and

17 b. the electronic money, a record attached to or logically
18 associated with the electronic money, or a system in which
19 the electronic money is recorded enables the person readily
20 to identify itself in any way, including by name, identifying
21 number, cryptographic key, office, or account number, as having
22 the powers under paragraph "a".

23 2. *Control through another person.* A person has control of
24 electronic money if another person, other than the transferor
25 of an interest in the electronic money:

26 a. has control of the electronic money and acknowledges that
27 it has control on behalf of the person, or

28 b. obtains control of the electronic money after having
29 acknowledged that it will obtain control of the electronic
30 money on behalf of the person.

31 3. *Meaning of exclusive.* A power is exclusive under
32 subsection 1, paragraph "a", subparagraph (2), even if:

33 a. the electronic money or a system in which the electronic
34 money is recorded limits the use of the electronic money or has
35 a protocol programmed to transfer control; or

1 *b.* the person has agreed to share the power with another
2 person.

3 Sec. 17. NEW SECTION. 554.9107A Control of controllable
4 account, controllable electronic record, or controllable payment
5 intangible.

6 1. *Control under section 554.14105.* A secured party has
7 control of a controllable electronic record as provided in
8 section 554.14105.

9 2. *Control of controllable account and controllable payment*
10 *intangible.* A secured party has control of a controllable
11 account or controllable payment intangible if the secured
12 party has control of the controllable electronic record that
13 evidences the controllable account or controllable payment
14 intangible.

15 Sec. 18. Section 554.9203, subsection 2, Code 2022, is
16 amended to read as follows:

17 2. *Enforceability.* Except as otherwise provided in
18 subsections 3 through 9 10, a security interest is enforceable
19 against the debtor and third parties with respect to the
20 collateral only if:

21 *a.* value has been given;

22 *b.* the debtor has rights in the collateral or the power to
23 transfer rights in the collateral to a secured party; and

24 *c.* one of the following conditions is met:

25 (1) the debtor has authenticated a security agreement that
26 provides a description of the collateral and, if the security
27 interest covers timber to be cut, a description of the land
28 concerned;

29 (2) the collateral is not a certificated security and is
30 in the possession of the secured party under section 554.9313
31 pursuant to the debtor's security agreement;

32 (3) the collateral is a certificated security in registered
33 form and the security certificate has been delivered to the
34 secured party under section 554.8301 pursuant to the debtor's
35 security agreement; or

1 (4) the collateral is controllable accounts, controllable
2 electronic records, controllable payment intangibles, deposit
3 accounts, electronic chattel paper, electronic documents,
4 electronic money, investment property, or letter-of-credit
5 rights, ~~or electronic documents,~~ and the secured party has
6 control under section 554.7106, 554.9104, 554.9105, 554.9105A,
7 554.9106, ~~or 554.9107,~~ or 554.9107A pursuant to the debtor's
8 security agreement.

9 Sec. 19. Section 554.9203, Code 2022, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 10. *Controllable account or controllable*
12 *payment intangible.* The attachment of a security interest in a
13 controllable electronic record that evidences a controllable
14 account or controllable payment intangible is also attachment
15 of a security interest in the controllable account or
16 controllable payment intangible.

17 Sec. 20. Section 554.9207, subsection 3, Code 2022, is
18 amended to read as follows:

19 3. *Duties and rights when secured party in possession or*
20 *control.* Except as otherwise provided in subsection 4, a
21 secured party having possession of collateral or control
22 of collateral under section 554.7106, 554.9104, 554.9105,
23 554.9105A, 554.9106, ~~or 554.9107,~~ or 554.9107A:

24 a. may hold as additional security any proceeds, except
25 money or funds, received from the collateral;

26 b. shall apply money or funds received from the collateral
27 to reduce the secured obligation, unless remitted to the
28 debtor; and

29 c. may create a security interest in the collateral.

30 Sec. 21. Section 554.9208, subsection 2, paragraphs e and f,
31 Code 2022, are amended to read as follows:

32 e. a secured party having control of a letter-of-credit
33 right under section 554.9107 shall send to each person having
34 an unfulfilled obligation to pay or deliver proceeds of the
35 letter of credit to the secured party an authenticated release

1 from any further obligation to pay or deliver proceeds of the
2 letter of credit to the secured party; and

3 *f.* a secured party having control of an electronic document
4 shall:

5 (1) give control of the electronic document to the debtor or
6 its designated custodian;

7 (2) if the debtor designates a custodian that is the
8 designated custodian with which the authoritative copy of
9 the electronic document is maintained for the secured party,
10 communicate to the custodian an authenticated record releasing
11 the designated custodian from any further obligation to
12 comply with instructions originated by the secured party
13 and instructing the custodian to comply with instructions
14 originated by the debtor; and

15 (3) take appropriate action to enable the debtor or its
16 designated custodian to make copies of or revisions to the
17 authoritative copy which add or change an identified assignee
18 of the authoritative copy without the consent of the secured
19 party; and

20 Sec. 22. Section 554.9208, subsection 2, Code 2022, is
21 amended by adding the following new paragraphs:

22 NEW PARAGRAPH. *g.* a secured party having control under
23 section 554.9105A of electronic money shall transfer control
24 of the electronic money to the debtor or a person designated
25 by the debtor; and

26 NEW PARAGRAPH. *h.* a secured party having control under
27 section 554.14105 of a controllable electronic record shall
28 transfer control of the controllable electronic record to the
29 debtor or a person designated by the debtor.

30 Sec. 23. Section 554.9301, subsection 3, Code 2022, is
31 amended to read as follows:

32 3. Except as otherwise provided in subsection 4, while
33 tangible negotiable documents, goods, instruments, tangible
34 money, or tangible chattel paper is located in a jurisdiction,
35 the local law of that jurisdiction governs:

1 *a.* perfection of a security interest in the goods by filing
2 a fixture filing;

3 *b.* perfection of a security interest in timber to be cut;
4 and

5 *c.* the effect of perfection or nonperfection and the
6 priority of a nonpossessory security interest in the
7 collateral.

8 Sec. 24. NEW SECTION. 554.9306A Law governing perfection
9 and priority of security interests in controllable accounts,
10 controllable electronic records, and controllable payment
11 intangibles.

12 The local law of this state governs perfection, the effect
13 of perfection or nonperfection, and the priority of a security
14 interest in a controllable account, controllable electronic
15 record, or controllable payment intangible granted by a debtor
16 located in this state at the time the security interest becomes
17 enforceable against the debtor with respect to the collateral
18 under section 554.9203.

19 Sec. 25. Section 554.9308, Code 2022, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 8. *Controllable account or payment*
22 *intangible.* Perfection of a security interest in a controllable
23 electronic record that evidences a controllable account or
24 controllable payment intangible also perfects a security
25 interest in the controllable account or controllable payment
26 intangible.

27 Sec. 26. Section 554.9310, subsection 2, paragraph h, Code
28 2022, is amended to read as follows:

29 *h.* in controllable accounts, controllable electronic
30 records, controllable payment intangibles, deposit accounts,
31 electronic chattel paper, electronic documents, investment
32 property, or letter-of-credit rights which is perfected by
33 control under section 554.9314;

34 Sec. 27. Section 554.9312, Code 2022, is amended to read as
35 follows:

1 554.9312 Perfection of security interests in controllable
2 accounts, controllable electronic records, controllable payment
3 intangibles, chattel paper, deposit accounts, documents,
4 goods covered by documents, instruments, investment property,
5 letter-of-credit rights, and money — perfection by permissive
6 filing — temporary perfection without filing or transfer of
7 possession.

8 1. *Perfection by filing permitted.* A security interest
9 in controllable accounts, controllable electronic records,
10 controllable payment intangibles, chattel paper, negotiable
11 documents, instruments, or investment property may be perfected
12 by filing.

13 2. *Control or possession of certain collateral.* Except as
14 otherwise provided in section 554.9315, subsections 3 and 4,
15 for proceeds:

16 a. a security interest in a deposit account may be perfected
17 only by control under section 554.9314;

18 b. and except as otherwise provided in section 554.9308,
19 subsection 4, a security interest in a letter-of-credit right
20 may be perfected only by control under section 554.9314; and

21 c. a security interest in tangible money may be perfected
22 only by the secured party's taking possession under section
23 554.9313; and

24 d. a security interest in electronic money may be perfected
25 only by control under section 554.9314.

26 3. *Goods covered by negotiable document.* While goods are
27 in the possession of a bailee that has issued a negotiable
28 document covering the goods:

29 a. a security interest in the goods may be perfected by
30 perfecting a security interest in the document; and

31 b. a security interest perfected in the document has
32 priority over any security interest that becomes perfected in
33 the goods by another method during that time.

34 4. *Goods covered by nonnegotiable document.* While goods are
35 in the possession of a bailee that has issued a nonnegotiable

1 document covering the goods, a security interest in the goods
2 may be perfected by:

- 3 *a.* issuance of a document in the name of the secured party;
- 4 *b.* the bailee's receipt of notification of the secured
5 party's interest; or
- 6 *c.* filing as to the goods.

7 5. *Temporary perfection — new value.* A security
8 interest in certificated securities, negotiable documents,
9 or instruments is perfected without filing or the taking of
10 possession or control for a period of twenty days from the time
11 it attaches to the extent that it arises for new value given
12 under an authenticated security agreement.

13 6. *Temporary perfection — goods or documents made available*
14 *to debtor.* A perfected security interest in a negotiable
15 document or goods in possession of a bailee, other than one
16 that has issued a negotiable document for the goods, remains
17 perfected for twenty days without filing if the secured
18 party makes available to the debtor the goods or documents
19 representing the goods for the purpose of:

- 20 *a.* ultimate sale or exchange; or
- 21 *b.* loading, unloading, storing, shipping, transshipping,
22 manufacturing, processing, or otherwise dealing with them in a
23 manner preliminary to their sale or exchange.

24 7. *Temporary perfection — delivery of security certificate*
25 *or instrument to debtor.* A perfected security interest in
26 a certificated security or instrument remains perfected for
27 twenty days without filing if the secured party delivers the
28 security certificate or instrument to the debtor for the
29 purpose of:

- 30 *a.* ultimate sale or exchange; or
- 31 *b.* presentation, collection, enforcement, renewal, or
32 registration of transfer.

33 8. *Expiration of temporary perfection.* After the twenty-day
34 period specified in subsection 5, 6, or 7 expires, perfection
35 depends upon compliance with this Article.

1 Sec. 28. Section 554.9313, subsection 1, Code 2022, is
2 amended to read as follows:

3 1. *Perfection by possession or delivery.* Except as otherwise
4 provided in subsection 2, a secured party may perfect a
5 security interest in tangible negotiable documents, goods,
6 instruments, tangible money, or tangible chattel paper by
7 taking possession of the collateral. A secured party may
8 perfect a security interest in certificated securities by
9 taking delivery of the certificated securities under section
10 554.8301.

11 Sec. 29. Section 554.9314, subsections 1 and 2, Code 2022,
12 are amended to read as follows:

13 1. *Perfection by control.* A security interest in ~~investment~~
14 ~~property, deposit accounts, letter-of-credit rights, electronic~~
15 ~~chattel paper, or electronic documents~~ controllable accounts,
16 controllable electronic records, controllable payment
17 intangibles, deposit accounts, electronic chattel paper,
18 electronic documents, electronic money, investment property,
19 or letter-of-credit rights, may be perfected by control of
20 the collateral under section 554.7106, 554.9104, 554.9105,
21 554.9105A, 554.9106, or 554.9107A.

22 2. *Specified collateral — time of perfection by control —*
23 *continuation of perfection.* A security interest in ~~deposit~~
24 ~~accounts, electronic chattel paper, letter-of-credit rights,~~
25 ~~or electronic documents~~ controllable accounts, controllable
26 electronic records, controllable payment intangibles, deposit
27 accounts, electronic chattel paper, electronic documents,
28 electronic money, or letter-of-credit rights, is perfected by
29 control under section 554.7106, 554.9104, 554.9105, 554.9105A
30 ~~or 554.9107,~~ or 554.9107A when the secured party obtains
31 control and remains perfected by control only while the secured
32 party retains control.

33 Sec. 30. NEW SECTION. 554.9326A Priority of security
34 interests in controllable account, controllable electronic
35 record, and controllable payment intangible.

1 A security interest in a controllable account, controllable
2 electronic record, or controllable payment intangible held by a
3 secured party having control of the account, electronic record,
4 or payment intangible has priority over a conflicting security
5 interest held by a secured party that does not have control.

6 Sec. 31. Section 554.9331, Code 2022, is amended to read as
7 follows:

8 **554.9331 Priority of rights of purchasers of ~~instruments,~~**
9 **controllable accounts, controllable records, controllable payment**
10 **intangibles, documents, instruments, and securities under other**
11 **articles Articles — priority of interests in financial assets**
12 **and security entitlements and protections against assertions of**
13 **claims under Article Articles 8 and 14.**

14 1. *Rights under Articles 3, 7, ~~and 8,~~ and 14 not*
15 *limited.* This Article does not limit the rights of a holder
16 in due course of a negotiable instrument, a holder to which a
17 negotiable document of title has been duly negotiated, ~~or~~ a
18 protected purchaser of a security, or a qualifying purchaser
19 of a controllable account, controllable electronic record, or
20 controllable payment intangible. These holders or purchasers
21 take priority over an earlier security interest, even if
22 perfected, to the extent provided in Articles 3, 7, ~~and 8,~~ and
23 14.

24 2. *Protection under Article Articles 8 and 14.* This Article
25 does not limit the rights of or impose liability on a person to
26 the extent that the person is protected against the assertion
27 of a claim under Article 8 or 14.

28 3. *Filing not notice.* Filing under this Article does not
29 constitute notice of a claim or defense to the holders, ~~or~~
30 purchasers, or persons described in subsections 1 and 2.

31 Sec. 32. Section 554.9332, Code 2022, is amended to read as
32 follows:

33 **554.9332 Transfer of money — transfer of funds from deposit**
34 **account.**

35 1. *Transferee of tangible money.* A transferee of tangible

1 money takes the money free of a security interest ~~unless the~~
2 ~~transferee acts~~ in the money if the transferee when receiving
3 delivery of the money does not act in collusion with the debtor
4 in violating the rights of the secured party.

5 2. Transferee of electronic money. A transferee of
6 electronic money takes the money free of a security interest
7 in the money if the transferee when obtaining control of the
8 money does not act in collusion with the debtor in violating
9 the rights of the secured party.

10 ~~2.~~ 3. Transferee of funds from deposit account. A
11 transferee of funds from a deposit account takes the funds
12 free of a security interest in the deposit account ~~unless the~~
13 ~~transferee acts~~ if the transferee when receiving the funds does
14 not act in collusion with the debtor in violating the rights of
15 the secured party.

16 Sec. 33. Section 554.9406, subsections 1, 2, and 3, Code
17 2022, are amended to read as follows:

18 1. *Discharge of account debtor — effect of*
19 *notification.* Subject to subsections 2 through 9 and
20 11, an account debtor on an account, chattel paper, or a
21 payment intangible may discharge its obligation by paying the
22 assignor until, but not after, the account debtor receives a
23 notification, authenticated by the assignor or the assignee,
24 that the amount due or to become due has been assigned and that
25 payment is to be made to the assignee. After receipt of the
26 notification, the account debtor may discharge its obligation
27 by paying the assignee and may not discharge the obligation by
28 paying the assignor.

29 2. *When notification ineffective.* Subject to ~~subsection~~
30 subsections 8 and 11, notification is ineffective under
31 subsection 1:

32 a. if it does not reasonably identify the rights assigned;

33 b. to the extent that an agreement between an account
34 debtor and a seller of a payment intangible limits the account
35 debtor's duty to pay a person other than the seller and the

1 limitation is effective under law other than this Article; or
2 *c.* at the option of an account debtor, if the notification
3 notifies the account debtor to make less than the full amount
4 of any installment or other periodic payment to the assignee,
5 even if:

- 6 (1) only a portion of the account, chattel paper, or payment
7 intangible has been assigned to that assignee;
- 8 (2) a portion has been assigned to another assignee; or
- 9 (3) the account debtor knows that the assignment to that
10 assignee is limited.

11 3. *Proof of assignment.* Subject to ~~subsection~~ subsections
12 8 and 11, if requested by the account debtor, an assignee shall
13 seasonably furnish reasonable proof that the assignment has
14 been made. Unless the assignee complies, the account debtor
15 may discharge its obligation by paying the assignor, even if
16 the account debtor has received a notification under subsection
17 1.

18 Sec. 34. Section 554.9406, Code 2022, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 11. *Inapplicability of certain*
21 *subsections.* Subsections 1 through 3 and 7 do not apply to a
22 controllable account or controllable payment intangible.

23 Sec. 35. Section 554.9601, subsection 2, Code 2022, is
24 amended to read as follows:

25 2. *Rights and duties of secured party in possession or*
26 *control.* A secured party in possession of collateral or control
27 of collateral under section 554.7106, 554.9104, 554.9105,
28 554.9105A, 554.9106, ~~or 554.9107~~, or 554.9107A has the rights
29 and duties provided in section 554.9207.

30 Sec. 36. Section 554.9605, Code 2022, is amended to read as
31 follows:

32 **554.9605 Unknown debtor or secondary obligor.**

33 1. Duties to unknown persons — general rule. ~~A~~ Except as
34 provided in subsection 2, a secured party does not owe a duty
35 based on its status as secured party:

1 ~~1.~~ a. to a person that is a debtor or obligor, unless the
2 secured party knows:

3 ~~a.~~ (1) that the person is a debtor or obligor;

4 ~~b.~~ (2) the identity of the person; and

5 ~~c.~~ (3) how to communicate with the person; or

6 ~~2.~~ b. to a secured party or lienholder that has filed a
7 financing statement against a person, unless the secured party
8 knows:

9 ~~a.~~ (1) that the person is a debtor; and

10 ~~b.~~ (2) the identity of the person.

11 2. When secured party owes duty to debtor notwithstanding

12 subsection 1. A secured party owes a duty based on its status
13 as a secured party to a person that is a debtor if, at the time
14 the secured party obtains control of a controllable account,
15 controllable electronic record, or controllable payment
16 intangible, the secured party has knowledge that the nature of
17 the collateral or a system in which the collateral is recorded
18 would prevent the secured party from acquiring the knowledge
19 specified in subsection 1, paragraph "a", subparagraph (1),
20 (2), or (3).

21 Sec. 37. Section 554.9628, subsection 2, Code 2022, is
22 amended to read as follows:

23 2. Limitation of liability based on status as secured

24 party. A Subject to subsection 6, a secured party is not liable
25 because of its status as secured party:

26 a. to a person that is a debtor or obligor, unless the
27 secured party knows:

28 (1) that the person is a debtor or obligor;

29 (2) the identity of the person; and

30 (3) how to communicate with the person; or

31 b. to a secured party or lienholder that has filed a
32 financing statement against a person, unless the secured party
33 knows:

34 (1) that the person is a debtor; and

35 (2) the identity of the person.

S-5056 (Continued)

1 Sec. 38. Section 554.9628, Code 2022, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6. *When secured party owes duty to debtor*
4 *notwithstanding subsection 2.* A secured party owes a duty
5 based on its status as a secured party to a person that is
6 a debtor if, at the time the secured party obtains control
7 of a controllable account, controllable electronic record,
8 or controllable payment intangible, the secured party has
9 knowledge that the nature of the collateral or a system in
10 which the collateral is recorded would prevent the secured
11 party from acquiring the knowledge specified in subsection 2,
12 paragraph "a", subparagraph (1), (2), or (3).>

By JEFF TAYLOR

[S-5056](#) FILED MARCH 10, 2022

SENATE FILE 2344

S-5053

- 1 Amend Senate File 2344 as follows:
- 2 1. Page 2, line 5, by striking <commission by rule,> and
- 3 inserting <commission,>

By DAWN DRISCOLL

S-5053 FILED MARCH 10, 2022

HOUSE FILE 2154

S-5057

- 1 Amend House File 2154, as passed by the House, as follows:
2 1. Page 1, after line 31 by inserting:
3 <Sec. ____ . Section 411.5, subsection 6, paragraph d, Code
4 2022, is amended by striking the paragraph.>
5 2. By renumbering as necessary.

By COMMITTEE ON STATE GOVERNMENT
ROBY SMITH, CHAIRPERSON

S-5057 FILED MARCH 10, 2022

HOUSE FILE 2346

S-5051

- 1 Amend House File 2346, as passed by the House, as follows:
2 1. Page 2, after line 5 by inserting:
3 <Sec. ____ . EFFECTIVE DATE. This Act takes effect January 1,
4 2023.>
5 2. Title page, lines 2 and 3, by striking <and making
6 penalties applicable.> and inserting <making penalties
7 applicable, and including effective date provisions.>
8 3. By renumbering as necessary.

By CRAIG JOHNSON

S-5051 FILED MARCH 10, 2022



[HF 2412](#) – Radon Testing, Schools (LSB5759HV.1)
Staff Contact: Lora Vargason (515.725.2249) lora.vargason@legis.iowa.gov
Fiscal Note Version – As amended and passed by the House

Description

[House File 2412](#) requires public school districts to establish a radon plan and have at least one short-term radon test done at each attendance center by July 1, 2027, and at least once every five years thereafter. Testing will be based on recognized national standards that outline school radon testing practices. If the results of the initial testing are above a specified level, additional testing and potential mitigation would be required within two years of the first test. Mitigation would not be required at an attendance center if the school district intends to abandon the building within five years or has a plan to renovate the attendance center within five years and the renovation will include radon mitigation. All new school construction will incorporate radon-resistant construction techniques. The Bill adds radon testing and mitigation to the list of permissible uses of revenues from the Secure an Advanced Vision for Education (SAVE) Fund.

Background

Radon is a naturally occurring radioactive gas that is colorless, odorless, and tasteless. It is produced by the natural breakdown or decay of uranium which is found in soil and rock throughout the United States. Radon travels through soil and enters buildings through cracks and other holes in the foundation. The United States Environmental Protection Agency (EPA) recognizes the natural outdoor level of radon gas at 0.4 picocuries per liter (pCi/L). The EPA [recommends](#) corrective action for indoor radon levels measured at or above 4 pCi/L. The EPA has designated all [99 Iowa counties](#) as Zone 1 for the highest average indoor radon potential.

Assumptions

- The Department of Public Health (DPH) will work with the Department of Education to develop the standards, write rules, and handle the influx of additional applications from individuals requesting school testing designation. No additional full-time equivalent positions will be required.
- The EPA suggests initial short-term testing in all frequently occupied, ground contact rooms. Public school districts will test schoolrooms within each school building. There are 1,293 public school attendance centers in the State of Iowa, with an estimated average of 17 classrooms per attendance center.
- The current cost of a radon test is estimated to be \$10 to \$15 per test.
- Average mitigation costs per building are \$3,300 but can vary greatly.
- New school construction is already incorporating radon-resistant construction techniques

Fiscal Impact

House File 2412 will have no fiscal impact to the State but will have a fiscal impact to local school districts.

The statewide cost estimate for initial radon testing for public schools is expected to be between \$220,000 to \$330,000. The cost estimate for required additional radon testing to public school districts is currently unknown and will depend on the number of radon tests that provide positive radon results. School districts may choose to use district employees trained in radon testing.

Initial measurement specialist certification for radon testing is \$275. Initial mitigation specialist certification for radon testing is \$175. Training for an individual to receive both certifications is \$400. It is unknown how many public school personnel already have certification or would pursue certification.

The estimated cost to public school districts for radon mitigation is currently unknown and would depend on the number of facilities that exceed radon limits.

House File 2412 may include a State mandate as defined in Iowa Code section [25B.3](#) and requires that any State mandate in the Bill be paid by a school district from the State Foundation School Aid appropriation.

Sources

Department of Education
Department of Public Health
United States Environmental Protection Agency
American Cancer Society

/s/ Holly M. Lyons

March 10, 2022

Doc ID 1288356

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

www.legis.iowa.gov