

retirement system portfolio, except the lending of common stocks shall not be allowed. When securities are loaned as provided by this paragraph, the treasurer, in order to secure the loan and as a condition thereof, shall obtain from the borrower federal securities of at least equal to one hundred three percent of market value, and the relative value of the collateral to the loan shall be maintained. The treasurer of state shall include in the reports required by sections twelve point seventeen (12.17) and seventeen point three (17.3) of the Code, a review of the program including the fiscal impact of the program.

Approved April 27, 1978

CHAPTER 1029
CRIMINAL CODE AMENDMENTS

S. F. 2200

AN ACT making technical changes of a corrective nature to the new criminal code.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section eighteen point one hundred eighteen (18.118), Code 1977, is amended to read as follows:

18.118 PENALTY FOR PRIVATE USE. Any state officer or employee ~~found guilty of~~ violating the rules of the state vehicle dispatcher shall, ~~upon conviction, be fined not to exceed one hundred dollars or imprisoned not to exceed thirty days in the county jail~~ guilty of a simple misdemeanor.

Sec. 2. Section twenty-nine A point thirty-five (29A.35), Code 1977, is amended to read as follows:

29A.35 USE FOR MILITARY ONLY. All arms, clothing, equipment, and other military property furnished or issued by the federal government or the state or for which an allowance has been made, shall be used for military purposes only, and each officer and enlisted person upon being separated from the military forces of the state, or upon demand of the commanding officer, shall forthwith surrender such military property in the officer's or enlisted person's possession to said commanding officer. Any member of the national guard who shall neglect to return to the armory of the unit, or place in charge of the commanding officer of the organization

to which the member belongs, any arms, clothing, equipment, or other military property or portion thereof, belonging to the federal government or the state, upon being notified by said commanding officer to do so, shall be guilty of a serious misdemeanor.

Sec. 3. Section twenty-nine A point thirty-six (29A.36), Code 1977, is amended to read as follows:

29A.36 INJURY OR DESTRUCTION OF PROPERTY. Every person who shall willfully or wantonly injure or destroy any articles of arms, clothing, equipment, or other military property furnished or issued by the federal government or the state, and refuses to make good such injury or loss; or who shall sell, dispose of, secrete or remove the same with intent to sell or dispose of it, shall be ~~punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail for not more than four months, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 4. Section twenty-nine A point thirty-eight (29A.38), Code 1977, is amended to read as follows:

29A.38 SERIOUS MISDEMEANORS. Any officer or enlisted person of the national guard who knowingly makes any false certificate of muster or false return of federal or state property or funds in the officer's or enlisted person's possession shall be guilty of a serious misdemeanor.

Sec. 5. Section twenty-nine A point thirty-nine (29A.39), Code 1977, is amended to read as follows:

29A.39 ~~EMBEZZLEMENT~~ THEFT. Any officer or enlisted person of the national guard who willfully neglects or refuses to apply all money, in the officer's or enlisted person's possession drawn from the state treasury, to the purpose for which such money was appropriated or who fails or refuses to account for or return any state or federal property or funds in the officer's or enlisted person's possession shall be guilty of ~~the crime of embezzlement by bailee and punished accordingly~~ theft.

Sec. 6. Section twenty-nine A point forty (29A.40), Code 1977, is amended to read as follows:

29A.40 FALSE WEARING OF UNIFORM. No member of the national guard shall wear the uniform thereof while not on duty without permission from competent authority. No person, firm, or corporation, other than a military organization or the members ~~of veterans~~ of such organizations organizing for the benefit of all its members, shall incorporate under the name of, or

adopt any trade name which embodies the name or designation, officially or generally recognized as the name of a military organization now or heretofore in existence, or any distinctive part of such name. Any person found guilty of a violation of any of the provisions of this section shall be ~~punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Any person who, without authority under the laws of the United States or of one of the states, wears the uniform of, or a distinctive part of the uniform of the armed forces of the United States, shall be guilty of a simple misdemeanor, ~~and shall be punished as provided in this section.~~

Sec. 7. Section twenty-nine A point forty-two (29A.42), Code 1977, is amended to read as follows:

29A.42 TRESPASS OR INTERFERENCE WITH OFFICIAL ACTS. Any person who shall trespass upon any military reservation, camp, or armory, in violation of the orders of the commander thereof, or officer charged with the responsibility therefor, ~~or shall be guilty of trespass and shall be punished as provided in section seven hundred sixteen point eight (716.8) of the Code Supplement.~~

Any person who shall molest, or interfere with any member of the national guard, in the discharge of his the member's duty, shall be guilty of a misdemeanor interference with official acts which is section seven hundred nineteen point one (719.1) of the Code Supplement. The commanding officer of such force may order the arrest of such person and cause ~~him~~ the person to be delivered to a peace officer or magistrate.

Sec. 8. Section twenty-nine A point forty-three (29A.43), Code 1977, is amended to read as follows:

29A.43 DISCRIMINATION PROHIBITED--LEAVE OF ABSENCE. No person, firm, or corporation, shall discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States because of ~~his~~ membership therein. No employer, or agent of any employer, shall discharge any person from employment because of being an officer or enlisted person of the military forces of the state, or hinder or prevent the officer or elected person from performing any military service such person may be called upon to perform by proper authority. Any member of the national guard or organized reserves of the armed forces of the United States ordered to temporary active duty

for the purpose of military training or ordered on active state service, shall be entitled to a leave of absence during the period of such duty or service from the member's private employment, other than employment of a temporary nature, and upon completion of such duty or service the employer shall restore such person to the position held prior to such leave of absence, or employ such person in a similar position, provided, however, that such person shall give evidence to the employer of satisfactory completion of such training or duty, and further provided that such person is still qualified to perform the duties of such position. Such period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. Any person violating any of the provisions of this section shall be ~~punished by a fine of not to exceed one hundred dollars, or by imprisonment in the county jail for a period of not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 9. Section twenty-nine A point forty-four (29A.44), Code 1977, is amended to read as follows:

29A.44 ASSAULT ON GUARDSMAN. Whenever the national guard is called into service under proclamation of the governor for the performance of any duties contemplated in this chapter any person who willfully assaults, or fires at, or throws any dangerous missiles at, against, or upon any member or body of the national guard so engaged, or civil officer or other persons lawfully aiding or assisting them in the discharge of their duties, shall be ~~deemed guilty of a felony and upon conviction shall be imprisoned in the state penitentiary for not more than two years~~ an aggravated misdemeanor.

Sec. 10. Section thirty-two point one (32.1), Code 1977, is amended to read as follows:

32.1 DESECRATION OF FLAG OR INSIGNIA. Any person who in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color, ensign, shield, or other insignia of the United States, or upon any flag, ensign, great seal, or other insignia of this state, or shall expose or cause to be exposed to public view, any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, upon which shall have

been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon, cast contempt upon, satirize, deride or burlesque, either by words or act, such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, or who shall, for any purpose, place such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, upon the ground or where the same may be trod upon, shall be deemed guilty of a simple misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days and shall also forfeit a penalty of fifty dollars for each such offense, to be recovered, with costs, in a civil action or suit in any court having jurisdiction.

Sec. 11. Section forty-three point one hundred nineteen (43.119), Code 1977, is amended to read as follows:

43.119 MISCONDUCT. Any party ~~committeeman~~ committee member or any primary election officer or public officer upon whom a duty is imposed by this chapter or by chapters herein made applicable, who shall willfully neglect to perform any such duty, or who shall willfully perform it in such a way as to hinder the objects thereof, or shall disclose to anyone, except as may be ordered by any court of justice, the manner in which a ballot may have been voted, shall be ~~punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 12. Section eighty-eight point fourteen (88.14),

subsections five (5), six (6), and seven (7), Code 1977 Supplement, is amended to read as follows:

5. WILLFUL VIOLATIONS CAUSING DEATH. Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 88.5, or ~~of~~ any regulations prescribed pursuant to this chapter, and that violation caused death to any employee, shall, upon conviction, be ~~punished by a fine of not more than ten thousand dollars or by imprisonment for not more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor; except that if the conviction is for a violation committed after a first conviction of such person, ~~punishment shall be by a fine of not more than twenty thousand dollars or by imprisonment of not more than one year, or by both such fine and imprisonment~~ the person shall be guilty of an aggravated misdemeanor.

6. ADVANCE NOTICE OF INSPECTIONS. Any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the commissioner or ~~his~~ the ~~commissioner's~~ designees, shall, upon conviction, be ~~punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

7. FILING FALSE DOCUMENTS. Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be ~~punished by a fine of not more than ten thousand dollars, or by imprisonment of not more than six months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 13. Section eighty-eight A point ten (88A.10), subsection one (1), Code 1977 Supplement, is amended to read as follows:

1. Any person who operates an amusement device or ride, concession booth or related electrical equipment at a carnival or fair without having obtained a permit from the commissioner or who violates any order or rule issued by the commissioner under this chapter is guilty of a serious misdemeanor and ~~upon conviction, shall be subject to imprisonment in the county jail for not more than one year, or be subject to a fine not to exceed ten thousand dollars, or be subject to both such imprisonment and fine.~~

Sec. 14. Section one hundred twenty-three point forty-six (123.46), Code 1977, is amended to read as follows:

123.46 CONSUMPTION IN PUBLIC PLACES--INTOXICATION. It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related functions, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof, which provides teaching for any grade from kindergarten through grade twelve. Any person violating any provisions of this section shall be ~~fin~~ed not-to-exceed-one-hundred-dollars-or-sentenced-not-to-exceed thirty-days-in-the-county-jail guilty of a simple misdemeanor.

Sec. 15. Section one hundred twenty-three point ninety (123.90), Code 1977, is amended to read as follows:

123.90 PENALTIES GENERALLY. Unless other penalties are herein provided, any person, except a person under legal age, who violates any of the provisions of this chapter, or who makes a false statement concerning any material fact in submitting an application for a permit or license, shall be ~~punished-by-a-fine-of-not-more-than-one-thousand-dollars, or-by-imprisonment-in-the-county-jail-for-not-more-than-one year,-or-by-both-such-fine-and-imprisonment~~ guilty of a serious misdemeanor. Any person under legal age who violates any of the provisions of this chapter shall upon conviction be ~~punished-by-a-fine-not-to-exceed-one-hundred-dollars-or-by imprisonment-in-the-county-jail-not-to-exceed-thirty-days~~ guilty of a simple misdemeanor.

Sec. 16. Section one hundred fifty-five point thirty (155.30), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Any person who violates a provision of section one hundred fifty-five point twenty-nine (155.29) of the Code or who sells or offers for sale, gives away, or administers to another person any prescription drug shall be deemed-guilty of-violating-the-provisions-of-this-section-or-who-violates any-provisions-of-section-155-29-is guilty of a public offense and punished as provided below.

Sec. 17. Section one hundred sixty-seven point nineteen (167.19), Code 1977 Supplement, is amended to read as follows:
167.19 PENALTY.

The violation of any of the provisions of this chapter

or any rule adopted thereunder by the department shall be ~~guilty of~~ a simple misdemeanor.

Sec. 18. Section one hundred seventy-two C point eleven (172C.11), Code 1977, is amended to read as follows:

172C.11 PENALTIES--REPORTS. Willful failure to file a required report, or the willful filing of false information, is a ~~public offense--A person found guilty of violating this section shall be subject to a fine not to exceed one thousand dollars~~ serious misdemeanor.

Sec. 19. Section one hundred eighty-nine A point seventeen (189A.17), subsection five (5), paragraphs a, b, and unnumbered paragraph one (1) of paragraph d, Code 1977, is amended to read as follows:

a. Any person who neglects or refuses to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if it is in ~~his~~ the person's power to do so, in obedience to the subpoena or lawful requirement of the secretary shall be guilty of ~~an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment~~ a serious misdemeanor.

b. Any person who willfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or who willfully neglects or fails to make or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the business of such person, or who willfully removes himself or herself from the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any person subject to this chapter or who willfully refuses to submit to the secretary or to any of ~~his~~ the secretary's authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter in ~~his~~ the person's possession or ~~within his~~ control, shall be deemed guilty of ~~an offense and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not less than one thousand dollars nor more than five thousand dollars, or to~~

~~imprisonment-in-the-county-jail-or-the-penitentiary-for-a term-of-not-more-than-three-years,-or-to-both-such-fine-and imprisonment~~ aggravated misdemeanor.

Any officer or employee of this state who makes public any information obtained by the secretary, without ~~his~~ the secretary's authority, unless directed by a court, or uses any such information to ~~his~~ the officer's or employee's advantage, shall be deemed guilty of a serious misdemeanor, ~~and-upon-conviction-thereof-shall-be-punished-by-a-fine-not exceeding-five-thousand-dollars,-or-by-imprisonment-in-the county-jail-not-exceeding-one-year,-or-by-both-such-fine-and imprisonment.~~

Sec. 20. Section one hundred ninety-one point three (191.3), unnumbered paragraph three (3), Code 1977 Supplement, is amended to read as follows:

Any person violating any provision of this section shall be guilty of a simple misdemeanor, and the suspension person shall have all licenses issued by the state for the public eating place in which a violation occurred suspended for one year ~~of-all-licenses-issued-by-the-state-of-iowa-for-the public-eating-place-in-which-said-violation-occurred.~~

Sec. 21. Section one hundred ninety-six point fourteen (196.14), Code 1977, is amended to read as follows:

196.14 PENALTY. Any person ~~found-guilty-of-any-violation who violates a provision~~ of this chapter shall ~~upon-conviction for-the-first-offense,-be-fined-twenty-five-dollars,-for-the second-offense,-one-hundred-dollars,-and-for-the-third-and subsequent-offenses,-two-hundred-dollars~~ be guilty of a simple misdemeanor. In addition ~~to-such-fines~~, if the offender is a handler or a retailer, the court for the third offense shall suspend ~~his-or-her~~ the offender's license for thirty days; ~~and~~ for the fourth and any subsequent offense, such license shall be revoked for a period of one year.

Sec. 22. Section one hundred ninety-eight point thirteen (198.13), subsections four (4) and six (6), Code 1977 Supplement, is amended to read as follows:

4. The secretary may apply for and the court ~~to~~ may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule promulgated under the chapter notwithstanding the existence of other remedies of law. ~~Said~~ If granted, the injunction ~~to~~ shall be issued without bond.

6. Any person who uses to ~~his~~ the person's own advantage, or reveals to other than the secretary, or officers of the

department or to the courts when relevant in any judicial proceedings, any information acquired under the authority of this chapter, concerning any method, records, formulations or processes which as a trade secret is entitled to protection, is guilty of a serious misdemeanor ~~and shall on conviction thereof be fined not less than one hundred dollars or imprisoned for not less than six months, or both, provided that this.~~ This prohibition shall not be deemed as prohibiting the secretary, or ~~his~~ the secretary's duly authorized agent, from exchanging information of a regulatory nature with appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

Sec. 23. Section two hundred four point one hundred one (204.101), subsection one (1), paragraph b, unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Nothing contained in this chapter shall be construed to prevent a physician, dentist, podiatrist or veterinarian from delegating the administration of controlled substances under this chapter to a nurse, ~~or~~ intern, or other qualified individual, or, as to veterinarians, to an orderly or assistant, under his ~~or her~~ direction and supervision; all pursuant to rules adopted by the board.

Sec. 24. Section two hundred seventeen point thirty (217.30), subsection seven (7), Code 1977, is amended to read as follows:

7. Violation of this section shall constitute a serious misdemeanor ~~punishable by a fine not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.~~

Sec. 25. Section two hundred seventeen point thirty (217.30), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The provisions of this section shall take precedence over section seventeen A point twelve (17A.12), subsection seven (7), of the Code.

Sec. 26. Chapter three hundred five A (305A), Code 1977, is amended by adding the following new section:

NEW SECTION. AUTHORITY TO DENY PERMISSION TO DISINTER HUMAN REMAINS. The state archaeologist shall have the authority to deny permission to disinter human remains that he or she determines have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the people of the United States.

Sec. 27. Section three hundred twenty-one point ninety-seven (321.97), Code 1977 Supplement, is amended to read as follows:

321.97 FRAUDULENT APPLICATIONS.

Any person who fraudulently uses a false or fictitious name in any application for the registration of, or certificate of title to, a vehicle or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application is guilty of a fraudulent practice.

Sec. 28. Section three hundred twenty-one point one hundred eighty (321.180), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A permittee shall not be penalized for failing to have his or her permit in immediate possession if the permittee produces in court, within a reasonable time, an instruction permit issued to him or her and valid at the time of the permittee's arrest.

Sec. 29. Section three hundred twenty-one point one hundred eighty-nine (321.189), subsection three (3), Code 1977, is amended to read as follows:

3. CARRIED AND EXHIBITED. Every licensee shall have his or her operator's or chauffeur's, or motorized bicycle license or instruction permit in ~~his~~ immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a judicial magistrate or district associate judge, a peace officer, or a field deputy or examiner of the department. However, no person charged with violating this section shall be convicted if he or she produces in court, within a reasonable time, an operator's or chauffeur's or motorized bicycle license or instruction permit issued to him or her and valid at the time of ~~his~~ the person's arrest.

Sec. 30. Section three hundred twenty-one point two hundred sixty (321.260), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Any person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes any official traffic-control device, any authorized warning sign or signal or barricade, whether temporary or permanent, any railroad sign or signal, any inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be ~~punished by imprisonment in the county jail for not more than six months, or fined not more than~~

~~five-hundred-dollars, or by both such fine and imprisonment~~
guilty of a serious misdemeanor.

Sec. 31. Section three hundred twenty-one point three hundred eighty-three (321.383), subsection three (3), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Any person who violates any provision of this section shall be fined ~~not more than five dollars~~ as provided in section eight hundred five point eight (805.8), subsection two (2), paragraph d, of the Code Supplement.

Sec. 32. Chapter three hundred twenty-one (321), Code 1977, is amended by adding the following new section:

NEW SECTION. VEHICLES WITHOUT IDENTIFICATION NUMBERS.
Any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in his or her possession any vehicle, or any component part of a vehicle, from which the vehicle identification number or component part number has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle or component part is guilty of a simple misdemeanor.

Sec. 33. Section three hundred twenty-eight point forty-one (328.41), unnumbered paragraph three (3), Code 1977 Supplement, is amended to read as follows:

Any person who operates any aircraft, while in an intoxicated condition or under the influence of narcotic drugs in violation of this section, shall, upon conviction or a plea of guilty, be punished guilty of a serious misdemeanor for the first offense ~~by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for a period not to exceed one year, or by both such fine and imprisonment,~~ be guilty of an aggravated misdemeanor for the second offense ~~by a fine of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment in the penitentiary for a period of not to exceed one year, or by both such fine and imprisonment,~~ and be guilty of a class D felony for a third offense ~~by imprisonment in the penitentiary for a period not to exceed three years.~~

Sec. 34. Section four hundred fifty-two point five (452.5), Code 1977 Supplement, is amended to read as follows:

452.5 LOANS BY TREASURER OF STATE.

The treasurer of state shall be guilty of a serious misdemeanor for a like violation loaning out, or in any manner using for private purposes, state, county, or other funds

in the treasurer's hands.

Sec. 35. Section five hundred seven point sixteen (507.16), Code 1977 Supplement, is amended to read as follows:

507.16 UNLAWFUL SOLICITATION OF BUSINESS.

Any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, solicits insurance for said company, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said company, shall be deemed guilty of a serious misdemeanor, and the provisions of said sections five hundred eleven point sixteen (511.16) of the Code Supplement and five hundred eleven point seventeen (511.17) of the Code are hereby extended to all companies contemplated by this chapter.

Sec. 36. Section five hundred seven A point ten (507A.10), Code 1977 Supplement, is amended to read as follows:

507A.10 PENALTIES.

Any unauthorized foreign or alien insurer who does any unauthorized act of an insurance business as set forth in this chapter shall be guilty of a fraudulent-practice serious misdemeanor.

Sec. 37. Section five hundred fifteen point one hundred twenty (515.120), Code 1977 Supplement, is amended to read as follows:

515.120 VIOLATIONS.

Any officer, manager, or agent of any insurance company or association who, with knowledge that it is doing business in an unlawful manner, or is insolvent, solicits insurance with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of a fraudulent-practice serious misdemeanor.

Sec. 38. Section five hundred thirty-seven point five thousand three hundred one (537.5301), subsections three (3) and four (4), Code 1977 Supplement, is amended to read as follows:

3. A person who willfully and knowingly engages in the business of entering into consumer credit transactions, or of taking assignments of rights against consumers arising therefrom and undertaking direct collection of payments or enforcement of these rights, without complying with the provisions of this chapter concerning notification under

section 537.6202 or payment of fees under section 537.6203, is guilty of a simple misdemeanor ~~and-upon-conviction-may-be-sentenced-to-pay-a-fine-not-exceeding-one-hundred-dollars.~~

4. A person who willfully and knowingly violates the provisions of section 537.7103 is guilty of a serious misdemeanor ~~and-upon-conviction-may-be-sentenced-to-pay-a-fine-not-exceeding-one-thousand-dollars.~~

Sec. 39. Section six hundred point eight (600.8), subsection one (1), paragraph b, unnumbered paragraph one (1) and subsection two (2), paragraph a, Code 1977 Supplement, is amended to read as follows:

A postplacement investigation and a report of this investigation ~~and-a-report-of-this-investigation~~ shall:

a. A preplacement investigation and report of the investigation shall be completed and the prospective adoption petitioner approved for a placement by the person making the investigation prior to any agency or independent placement of a minor person in the petitioner's home in anticipation of an ensuing adoption. A report of a preplacement investigation that has approved a prospective adoption petitioner for a placement shall not authorize placement of a minor person with that petitioner after one year from the date of the report's issuance. However, if the prospective adoption petitioner is a stepparent or a relative within the fourth degree of consanguinity who has assumed custody of a minor person to be adopted, a preplacement investigation of this petitioner and a report of the investigation may be completed at a time established by the court or may be waived as provided in ~~section-6~~ subsection twelve (12) of this section.

Sec. 40. Section six hundred two point sixty-two (602.62), Code 1977 Supplement, is amended to read as follows:
602.62 PROCEDURE.

The criminal procedure before judicial magistrates shall be as provided in chapters 804, 806, 808, 811, ~~and 820, and~~ eight hundred twenty-one (821) of the Code Supplement, and rules 2 and 32 through 46, rules of criminal procedure. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 41. Section six hundred ninety-one point one (691.1), Code 1977 Supplement, is amended to read as follows:
691.1 LABORATORY CREATED.

There is hereby created under the control, direction and supervision of the commissioner of public safety a state

criminalistics laboratory. The commissioner of public safety may assign the criminalistics laboratory to a division or bureau within his or her department. The laboratory shall, within its capabilities, conduct analyses, comparative studies, fingerprint identification, firearms identification, questioned documents studies, and other studies normally performed by a criminalistics laboratory when requested by a county attorney, medical examiner, or law enforcement agency of this state to aid in any criminal investigation. Agents of the division of criminal investigation and bureau of identification may be assigned to the criminalistics laboratory by the commissioner. New employees shall be appointed pursuant to chapter 19A, and need not qualify as agents for the division of criminal investigation and bureau of identification, and shall not participate in the peace officers' retirement plan established pursuant to chapter 97A.

Sec. 42. Section six hundred ninety-one point nine (691.9), subsection one (1), Code 1977 Supplement, is amended to read as follows:

1. Ammunition and firearms which are stolen or embezzled or confiscated pursuant to a valid arrest or search warrant and for which lawful possession is not established or for which lawful title cannot be ascertained pursuant to ~~chapters 645-and~~ chapter 809 shall be forwarded to the state criminalistics laboratory for deposit by the law enforcement agency having possession of such items. Ammunition and firearms which were used in the perpetration or attempted perpetration of a criminal offense and are owned by the perpetrator of such offense shall be forfeited to the state, and shall be deposited with the state criminalistics laboratory if no longer required in a criminal action for evidentiary purposes. Ammunition and firearms forfeited shall become the property of the state.

Sec. 43. Section six hundred ninety-two point seventeen (692.17), Code 1977 Supplement, is amended to read as follows:
692.17 EXCLUSIONS.

Criminal history data in a computer data storage system ~~does~~ shall not include arrest or disposition data after the person has been acquitted or the charges dismissed.

Sec. 44. Section seven hundred two point seventeen (702.17), Code 1977 Supplement, is amended to read as follows:
702.17 SEX ACT.

The term "sex act" or "sexual activity" means any sexual contact between two or more persons, by penetration of the

penis into the vagina or anus, by contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person or by use of ~~artificial~~ artificial sexual organs or substitutes therefore in contact with the genitalia or anus.

Sec. 45. Section seven hundred three point five (703.5), subsection two (2), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

"High managerial agent" means an officer of the corporation, partner, or other agent in a position of comparable authority with respect to the formulation of policy or the ~~asupervision~~ supervision in a managerial capacity of subordinate employees.

Sec. 46. Section seven hundred four point twelve (704.12), Code 1977 Supplement, is amended to read as follows:

704.12 USE OF FORCE IN MAKING AN ARREST.

A peace officer or other person making an arrest or securing an arrested person may use such force as is permitted by sections ~~804.11 through 804.16~~ eight hundred four point eight (804.8), eight hundred four point ten (804.10), eight hundred four point thirteen (804.13), and eight hundred four point fifteen (804.15) of the Code Supplement.

Sec. 47. Section seven hundred nine point four (709.4), unnumbered paragraph one (1) and subsections one (1) and four (4), Code 1977 Supplement, are amended to read as follows:

Any sex act between persons who are not at the time cohabiting as husband and wife is sexual abuse in the third degree by ~~either-of-the-participants~~ a person when the act is performed with the other participant in any of the following circumstances:

1. Such act is done by force or against the will of the other participant.

4. The other person participant is fourteen or fifteen years of age ~~but-less-than-sixteen-years-of-age~~ and the defendant person is a member of the same household as the victim other participant, the defendant person is related to the victim other participant by blood or affinity to the fourth degree, or the defendant person is in a position of authority over the victim other participant and used this authority to coerce the victim other participant to submit.

Sec. 48. Section seven hundred nine point four (709.4), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The person is six or more years older than the other participant, and that other participant is fourteen or fifteen years of age.

Sec. 49. Section seven hundred ten point six (710.6), Code 1977 Supplement, is amended to read as follows:

710.6 VIOLATING CUSTODIAL ORDER.

Any relative of a child who, acting in violation of any order of any court which fixes, permanently or temporarily, the custody of such child in another, takes and removes such child ~~and removes him or her~~ from the state, and conceals the child's whereabouts without the consent of the person having lawful custody, commits a class D felony.

Any parent of a child living apart from the other parent who takes and conceals that child from another within the state in violation of a custodial order and without the other parent's consent shall be guilty of a serious misdemeanor.

Any parent of a child living apart from the other parent who conceals that child in violation of a court order granting visitation rights and without the other parent's consent, shall be guilty of a serious misdemeanor.

Sec. 50. Section seven hundred sixteen point five (716.5), Code 1977 Supplement, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person commits criminal mischief in the third degree who does either of the following:

1. Intentionally disinters human remains from a burial site without lawful authority.
2. Intentionally disinters human remains that have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the United States without the permission of the state archaeologist.

Sec. 51. Section seven hundred fourteen point eight (714.8), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. Removes, defaces, covers, alters, or destroys any component part number as defined in section three hundred twenty-one point one (321.1), subsection seventy-four (74), of the Code or vehicle identification number as defined in section three hundred twenty-one point one (321.1), subsection seventy-five (75), of the Code for the purpose of concealing or misrepresenting the identity of the component part or vehicle.

Sec. 52. Section seven hundred fourteen point twenty-one

(714.21), Code 1977 Supplement, is amended to read as follows:
714.21 PENALTY.

Violation of any of the provisions of sections 714.17, 714.18, or 714.20 shall be ~~punishable-upon-conviction-by-a fine-not-exceeding-five-hundred-dollars-or-six-months-in-jail,~~ or-beth a serious misdemeanor.

Sec. 53. Section seven hundred twenty-one point six (721.6), Code 1977 Supplement, is amended to read as follows:
721.6 EXCEPTION TO SECTIONS 721.3 TO 721.5.

The provisions of sections 721.3 to 721.5, inclusive, shall not be construed as prohibiting any such officer or employee who is a candidate for political office to engage in campaign campaigning at any time or at any place for himself or herself.

Sec. 54. Section seven hundred twenty-five point nine (725.9), Code 1977 Supplement, is amended to read as follows:
725.9 POSSESSION OF GAMBLING DEVICES PROHIBITED.

~~No-one-shall;~~ A person who in any manner or for any purpose whatever, except under proceeding to destroy the same, ~~have;~~ keep, or hold has in possession or control any gambling device shall be guilty of a serious misdemeanor. The term "gambling device" means and includes every device used or adapted or designed to be used for gambling. Roulette wheels, klondike tables, ~~punchboards~~ punchboards, faro layouts, keno layouts, numbers tickets, slot machines, pinball machines, push cards, jar tickets and pull-tabs are gambling devices per se. The term "gambling device" does not include any device regularly manufactured and offered for sale and sold as a toy, except that any use of such a device for gambling purposes constitutes unlawful gambling.

Sec. 55. Section seven hundred twenty-five point ten (725.10), Code 1977 Supplement, is amended to read as follows:
725.10 POOL SELLING--PLACES USED FOR.

Any person who records or registers bets or wagers or sells pools upon the result of any trial or contest of skill, speed, or power of endurance of man or beast, or upon the result of any political nomination or election, and any person who keeps a place for the purpose of doing any such thing, and any owner, lessee, or occupant of any premises, who knowingly permits the same, or any part thereof, to be used for any such purpose, and anyone who, as custodian or depositary thereof, for hire or reward, receives any money, property, or thing of value staked, wagered, or bet upon any such result, shall be ~~finned-not-exceeding-one-thousand-dollars,~~ or imprisoned-in-the-county-jail-not-exceeding-one-year, ~~or-beth~~

guilty of a serious misdemeanor.

Sec. 56. Section seven hundred twenty-five point eleven (725.11), Code 1977 Supplement, is amended to read as follows:
725.11 BULLFIGHTS AND OTHER CONTESTS.

If any person keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, or engage in, aid, abet, encourage, or assist in any bull, bear, dog, or cock fight, or a fight between any other creatures, ~~he~~ the person shall be guilty of a serious misdemeanor.

Sec. 57. Section seven hundred twenty-five point fourteen (725.14), Code 1977 Supplement, is amended to read as follows:
725.14 PUNISHMENT FOR SECTION 725.13.

A violation of the provisions of section 725.13 shall be ~~punished by a fine not less than five nor exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days~~ a simple misdemeanor.

Sec. 58. Section seven hundred twenty-five point sixteen (725.16), Code 1977 Supplement, is amended to read as follows:
725.16 GAMBLING PENALTY.

A person who commits an offense declared in ~~sections 725.5 through 725.48~~ or chapter 99B to be a misdemeanor shall be guilty of a serious misdemeanor.

Sec. 59. Section seven hundred twenty-eight point four (728.4), Code 1977 Supplement, is amended to read as follows:
728.4 SALE OF HARD CORE PORNOGRAPHY.

Any person who knowingly sells or offers for sale material depicting a sex act involving sado-masochistic abuse, excretory functions, a child, or bestiality which the average adult taking the material as a whole in applying contemporary community standards would find that it appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be guilty of a simple misdemeanor. Charges under this section may only be brought by a county attorney, or by the attorney general, ~~or a grand jury.~~

Sec. 60. Section seven hundred twenty-nine point one (729.1), Code 1977 Supplement, is amended to read as follows:
729.1 RELIGIOUS TEST.

Any violation of section 4, Article I of the Constitution of Iowa is hereby declared to be a serious misdemeanor.

Sec. 61. Section seven hundred twenty-nine point three (729.3), Code 1977 Supplement, is amended to read as follows:
729.3 PENALTY.

Any person, agency, bureau, corporation, or association that violates provisions of sections 729.1 and 729.2 shall be guilty of a simple misdemeanor ~~and upon conviction be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment.~~

Sec. 62. Section seven hundred twenty-nine point four (729.4), subsection three (3), Code 1977 Supplement, is amended to read as follows:

3. Any person, employer, labor union or organization or officer of a labor union or organization convicted of a violation of subsections 1 or 2 shall be ~~punished by a fine not to exceed one hundred dollars or imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 63. Section seven hundred thirty point one (730.1), Code 1977 Supplement, is amended to read as follows:
730.1 PUNISHMENT.

If any person, agent, company, or corporation, after having discharged any employee from ~~his or its~~ service, shall prevent or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company, or corporation, except by furnishing in writing on request a truthful statement as to the cause of ~~his~~ the person's discharge, such person, agent, company, or corporation shall be ~~punished by a fine not exceeding five hundred nor less than one hundred dollars,~~ guilty of a serious misdemeanor and shall be liable for all damages sustained by any such person.

Sec. 64. Section seven hundred thirty point three (730.3), Code 1977 Supplement, is amended to read as follows:
730.3 FALSE CHARGES CONCERNING HONESTY.

Every person who shall by any letter, mark, sign, or designation whatever, or by any verbal statement, falsely and without probable cause, report to any railroad or any other company or corporation, or to any person or firm, or to any of the officers, servants, agents, or employees of any such corporation, person, or firm, that any conductor, brakeman, engineer, fireman, station agent, or any employee of such railroad company, corporation, person, or firm has received any money or thing of value for the transportation

of persons or property or for other service for which he the person has not accounted to such corporation, person, or firm, or shall falsely and without probable cause report that any conductor, brakeman, engineer, fireman, station agent, or other employee of any railroad company, corporation, firm, or person, neglected, failed, or refused to collect any money or ticket for transportation of persons or property or other service when it was their duty so to do, shall, on conviction, be adjudged guilty of a simple misdemeanor, ~~and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars or be imprisoned in the county jail for a period not exceeding thirty days.~~

Sec. 65. Section seven hundred thirty-one point six (731.6), Code 1977 Supplement, is amended to read as follows:
731.6 PENALTY.

Any person, firm, association, labor organization, or corporation or any director, officer, representative, agent or member thereof, who shall violate any of the provisions of this chapter or who shall aid and abet in such violation shall be deemed guilty of a serious misdemeanor.

Sec. 66. Section seven hundred thirty-two point four (732.4), Code 1977 Supplement, is amended to read as follows:
732.4 PENALTY.

Any person, or any labor union, labor association or labor organization or any officer, representative, agent or member thereof who shall violate any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for a period of not more than thirty days.~~

Sec. 67. Section eight hundred one point four (801.4), subsection eleven (11), Code 1977 Supplement, is amended to read as follows:

11. "Complaint" means a statement in writing, under oath or affirmation, made before a magistrate or district court clerk or clerk's deputy as the case may be, of the commission of a public offense, and accusing someone thereof. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure.

Sec. 68. Section eight hundred four point one (804.1), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

Whenever the complaint charges a simple misdemeanor, the magistrate may ~~in his or her discretion~~ issue a citation

instead of a warrant of arrest. The citation shall set forth substantially the nature of the offense and shall command the person against whom the complaint was made to appear before the magistrate issuing the citation at a time and place stated therein.

Sec. 69. Section eight hundred four point twenty-three (804.23), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

The officer shall, without unnecessary delay, take the person arrested pursuant to section ~~804.8~~ eight hundred four point eleven (804.11) of the Code Supplement before the nearest or most accessible magistrate to the place where the arrest occurred.

Sec. 70. Section eight hundred five point six (805.6), subsection one (1), paragraph c, unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Unless the officer issuing the citation arrests the alleged offender, or permits admission or requires submission of bail as provided in section 805.9, subsection 3, the officer shall enter in the blank contained in the statement required by paragraph "a b" of this subsection one of the following amounts and shall require the person to sign the written appearance:

Sec. 71. Section eight hundred five point eight (805.8), subsection two (2), paragraph b, Code 1977 Supplement, is amended to read as follows:

b. For registration violations under sections 321.17, 321.32, 321.34, 321.37, 321.38, 321.41, and ~~324.490~~ subsection three (3) of section three hundred twenty-one point one hundred eighty-nine (321.189) of the Code, the scheduled fine is five dollars. For violations of ~~section-324-490~~ subsection three (3) of section three hundred twenty-one point one hundred eighty-nine (321.189) of the Code, the case shall be dismissed without imposition of fine or costs if a license valid at the time of the issuance of the citation is presented by the defendant to the magistrate or scheduled violations office.

Sec. 72. Section eight hundred eleven point one (811.1), Code 1977 Supplement, is amended to read as follows:

811.1 BAILABLE AND NONBAILABLE OFFENSES.

All defendants are bailable both before and after conviction, by sufficient surety, or subject to release upon condition or on their own recognizance, except that a defendant convicted of a class A felony shall not be admitted to bail while appealing such conviction ~~or seeking post-conviction relief~~.

Sec. 73. Section eight hundred eleven point five (811.5), Code 1977 Supplement, is amended to read as follows:

811.5 BAIL ON APPEAL.

After conviction, upon appeal to the supreme appellate court, the defendant must be admitted to bail, if it be from the judgment imposing a fine, upon the undertaking of bail that the defendant will, in all respects, abide the orders and the judgment of the supreme appellate court upon appeal; if from a judgment of imprisonment, except as provided in section 811.1 upon the undertaking of bail that the defendant will surrender ~~himself-or-herself~~ in execution of the judgment and direction of the supreme appellate court, and in all respects abide the orders and judgment of the supreme appellate court upon the appeal. Such bail may be taken, either by the court where the judgment was rendered, or the district court of the county in which the defendant is imprisoned, or by the supreme appellate court, or a judge or clerk of any of such courts. Provided, that in lieu of bail, bailable defendants as described herein may be released in accordance with the provisions of section 811.2.

Sec. 74. Section eight hundred fourteen point five (814.5), subsection two (2), paragraph a, Code 1977 Supplement, is amended to read as follows:

a. An order quashing dismissing an arrest or search warrant.

Sec. 75. Section eight hundred fifteen point seven (815.7), Code 1977 Supplement, is amended to read as follows:

815.7 FEES TO ATTORNEYS.

An attorney appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by a judge of the district judge court, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. Such attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so his or her fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class

A felony cases, two may be authorized.

Sec. 76. Section eight hundred twenty point eleven (820.11), Code 1977 Supplement, is amended to read as follows:
820.11 PENALTY FOR WILLFUL DISOBEDIENCE.

Any officer who shall deliver to the agent for extradition of the demanding state a person in ~~his~~ the officer's custody under the governor's warrant, in willful disobedience to the last section, shall be guilty of a simple misdemeanor ~~and, on conviction, shall be fined not more than one hundred dollars or be imprisoned not more than thirty days.~~

Sec. 77. Section eight hundred twenty point seventeen (820.17), Code 1977 Supplement, is amended to read as follows:
820.17 DISCHARGE OR RECOMMITMENT.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge ~~him or may recommit him~~ or recommit the accused for a further period not to exceed sixty days, or a judge or magistrate ~~judge~~ may again take bail for ~~his~~ the accused's appearance and surrender, as provided in section 820.16, but within a period not to exceed sixty days after the date of such new bond.

Sec. 78. Section eight hundred twenty-one point four (821.4), Code 1977 Supplement, is amended to read as follows:
821.4 HABITUAL CRIMINALS.

Nothing in this chapter or in the agreement on detainers shall be construed to require the application of ~~chapter-747~~ section nine hundred two point eight (902.8) of the Code Supplement to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of this agreement.

Sec. 79. Section nine hundred one point two (901.2), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment, deferment of sentence, or suspension of sentence and probation. The investigation shall be made by the judicial district department of correctional services.

Sec. 80. Section nine hundred one point four (901.4), Code 1977 Supplement, is amended to read as follows:
901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

The court may, in its discretion, make the presentence investigation report or parts of it available to the defendant,

or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of any medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. Such reports shall be part of the record but shall be sealed and opened only on order of the court. In any case where the defendant is committed to the custody of the division of adult corrections and is not a class A felon, a copy of the presentence investigation report shall be sent to the director at the time of commitment.

Sec. 81. Section nine hundred one point five (901.5), Code 1977 Supplement, is amended by adding the following new subsections:

NEW SUBSECTION. If authorized by section nine hundred seven point three (907.3) of the Code Supplement, the court may defer the sentence and assign the defendant to the judicial district department of correctional services.

NEW SUBSECTION. The court may pronounce judgment and sentence the defendant to confinement and then reconsider the sentence as provided by section nine hundred two point four (902.4) or nine hundred three point two (903.2) of the Code Supplement.

Sec. 82. Section nine hundred two point one (902.1), Code 1977 Supplement, is amended to read as follows:

902.1 CLASS A FELONY.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class A felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the division of adult corrections for the rest of ~~his-er-her~~ the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or probation reconsideration of sentence shall apply to a class A felony, and no person convicted of a class A felony shall be released on parole unless the governor commutes the sentence to a term of years.

Sec. 83. Section nine hundred two point six (902.6), Code 1977 Supplement, is amended to read as follows:

902.6 RELEASE.

A person who has been committed to the custody of the director of the division of adult corrections shall remain in such custody until ~~his-er-her-release~~ released by the order of the board of parole, in accordance with the law governing

paroles, or by order of the judge after reconsideration of a felon's sentence pursuant to section nine hundred two point four (902.4) of the Code Supplement, or until the maximum term of the person's confinement, as fixed by law, has been completed.

Sec. 84. Section nine hundred seven point three (907.3), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Pursuant to section 901.5, the trial court may, upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise either any of the options contained in subsections 1 and 2 of this section. However, this section shall not apply to a forcible felony or a violation of section 204.401, subsection 1 or 2, to which section 204.409, subsection 2 is not applicable and which is not proved to be an accommodation offense under section 204.410.

Sec. 85. Section nine hundred seven point four (907.4), Code 1977 Supplement, is amended to read as follows:
907.4 DEFERRED JUDGMENT DOCKET.

Any deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment against the defendant. The permanent record provided for in this section shall constitute a confidential record exempted from public access under section 68A.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, and judicial magistrates requesting information pursuant to this section or the designee of such justice, judge, or magistrate.

Sec. 86. Section nine hundred seven point five (907.5), Code 1977 Supplement, is amended to read as follows:
907.5 STANDARDS FOR RELEASE ON PROBATION--WRITTEN REASONS.

Before deferring judgment, deferring sentence, or suspending sentence, the court first shall determine which option, if available, will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making

this determination the court shall consider the age of the defendant; the defendant's prior record of convictions and prior record of deferments of judgment if any; the defendant's employment circumstances; the defendant's family circumstances; the nature of the offense committed; and such other factors as are appropriate. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment, to defer sentence, or to suspend sentence, and its decision on the length of probation.

Sec. 87. Section nine hundred seven point seven (907.7), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

Sec. 88. Section nine hundred seven point twelve (907.12), subsection one (1), paragraph c, and subsection three (3), Code 1977 Supplement, is amended to read as follows:

c. "Criminal activities" includes any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered and any other crime committed after July 1, 1972 which is admitted or not contested by the defendant, whether or not prosecuted. However, "criminal activities" does not include simple misdemeanors under chapter 321.

3. If the trial court exercises ~~either~~ any of the sentencing options under section 907.3, the court shall require as a condition of probation that the defendant, in cooperation with the probation officer assigned to the defendant, promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is presently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during ~~his-er~~ her the probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that ~~he-er-she~~ the defendant will not be able to make any

restitution, the defendant shall so state and shall specify the reasons. If the defendant believes that no person suffered pecuniary damages as a result of the defendant's criminal activities, ~~he-or-she~~ the defendant shall so state.

Sec. 89. Section one hundred nine point one hundred nineteen (109.119), Code 1977, is repealed.

Sec. 90. Section two hundred forty-five point twenty-one (245.21), Code 1977 Supplement, is repealed.

Sec. 91. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter four (4), section four hundred eighty-nine (489), is amended to read as follows:

SEC. 489. Section six hundred two point sixty-two (602.62), Code 1975, is amended to read as follows:

602.62 PROCEDURE. The criminal procedure before judicial magistrates shall be as provided in ~~chapters-754, 754-to-763, 765, 766, and-768~~ chapter ~~one-(1)~~ two (2), divisions four (IV), six (VI), eight (VIII), eleven (XI) of this Act, rules two (2) and thirty-two (32) through forty-six (46), rules of criminal procedure, and chapter seven hundred fifty-nine (759) of the Code. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 92. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter sixty-six (66), is amended by striking section **nine (9)***.

Sec. 93. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-seven (87), section one (1), unnumbered paragraph one (1), is amended to read as follows:

It is the intent of this Act that there be made available within the state correctional institutions opportunities for employment of inmates in meaningful jobs ~~at wages commensurate with those paid persons employed in similar jobs outside the correctional institutions~~, with the following objectives:

Sec. 94. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-seven (87), section ten (10), subsection three (3), is amended to read as follows:

3. Except as prohibited by applicable provisions of the United States Code, inmates of adult correctional institutions of this state may be employed in the manufacture and processing of products for introduction into interstate or intrastate commerce, so long as they are paid ~~no less than the prevailing minimum wage~~ wages commensurate with those paid persons employed in similar jobs outside the correctional institutions.

Sec. 95. Acts of the Sixty-seventh General Assembly, 1977

*See section 4.1(1) of the Code

Session, chapter eighty-seven (87), section twelve (12), is amended to read as follows:

SEC. 12. Effective July 1, 1978, and notwithstanding any other provisions of this Act, goods made available by Iowa State Industries shall be restricted to items, materials, supplies and equipment which are formulated and/or manufactured by Iowa State Industries and shall not include goods, materials, supplies or equipment which are merely purchased by Iowa State Industries for repacking or resale except with approval of the state director when such repacking for resale items are directly related to product lines.

Sec. 96. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred fifty-four (154), is amended by striking section thirty-one (31).

Approved June 13, 1978

CHAPTER 1030

DIVISION OF RISK MANAGEMENT

H. F. 545

AN ACT relating to the management of loss and loss exposures of government.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. DEFINITIONS. As used in the Act, unless the context otherwise requires:

1. "Department" means the department of general services.
2. "Division" means the division of risk management created by section three (3) of this Act.
3. "Insurance coverage" means any contract whereby loss exposure or risk exposure is transferred to or shared by an insurer.
4. "Governmental subdivision" means and includes a city, county, township, school district, area education agency, area vocational school, area community college, and entities created by agreement under chapter twenty-eight E (28E) of the Code. The term does not include any unit or agency of state government.

Sec. 2. NEW SECTION. SCOPE OF ACT. This Act applies to all property and casualty loss exposures, but does not apply to any exposure covered by life, accident and health, or workers compensation insurance, and does not apply to any retirement plan or system.