

any a law of this state or city ordinance, other than parking regulations, regulating the operation of motor vehicles on highways and after. After revoking a license under this section the department shall not grant application for any a new license or permit until the expiration of one year or until the licensee attains his or her licensee's sixteenth birthday whichever is the longer period.

Sec. 2. A person who possessed prior to January 1, 1982, a minor's school license under section 321.194 valid for the operation of a motorcycle, shall not be required to successfully complete a motorcycle education course when applying for a motor vehicle license valid for the operation of a motorcycle under section 321.189, subsection 1. However this section does not apply to persons who have had their minors' school licenses suspended or revoked due to motor vehicle violations.

Sec. 3. Notwithstanding section 321.177, subsection 1, a person who possessed prior to July 1, 1982, a one-year probationary operator's license under section 321.178, subsection 2, shall not be required to complete an approved driver education course when applying for an operator's license under section 321.189, subsection 1, and the minimum age of the applicant shall be sixteen years. However this section does not apply to a person who has had the person's one-year probationary operator's license revoked, suspended, or canceled due to moving traffic violations.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in The Sun, a newspaper published in Mount Vernon, Iowa, and in The North Scott Press, a newspaper published in Eldridge, Iowa.

Approved April 26, 1983

I hereby certify that the foregoing Act, House File 587 was published in The Sun, Mount Vernon, Iowa on May 5, 1983 and in The North Scott Press, Eldridge, Iowa on May 5, 1983.

MARY JANE ODELL, *Secretary of State*

CHAPTER 50

DEFENDANT'S RELEASE BEFORE APPEARANCE BEFORE MAGISTRATE

S.F. 334

AN ACT relating to the release of a defendant before an appearance before a magistrate.

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

Section 1. Section 804.1, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Whenever If the complaint charges a simple misdemeanor public offense, the magistrate may 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 in the citation. The magistrate shall prescribe the manner of service for the citation at the time the citation is issued.

Sec. 2. Section 804.21, subsection 1, Code 1983, is amended to read as follows:

1. Any A person arrested in obedience to a warrant shall, without unnecessary delay, be taken without unnecessary delay before the nearest or most accessible magistrate to the place where the arrest occurred, and the. The officer must shall at the same time deliver to the magistrate the warrant with the officer's return thereon endorsed on it and subscribed by the officer with his or her the officer's official title. However, this section, and sections 804.22 and 804.23, do not preclude the release of an arrested person within the period of time the person would otherwise remain incarcerated while waiting to be taken before a magistrate if the release is pursuant to pretrial release guidelines or a bond schedule promulgated by the judicial council acting pursuant to Iowa rule of civil procedure 380. If, however, a person is released pursuant to pretrial release guidelines, a magistrate must, within twenty-four hours of such release, or as soon as practicable on the next subsequent working day of the court, either (1) approve in writing of the release, or (2) disapprove of the release and issue a warrant for the person's arrest.

Sec. 3. Section 804.21, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 4. a. The judicial council shall promulgate rules and bond levels to be contained within a bond schedule for the release of an arrested person.

b. The bond schedule shall not be used unless both the following conditions are met:

- (1) The person was arrested for a crime other than a forcible felony, and
- (2) The courts are not in session.

NEW SUBSECTION. 5. This section does not prevent the release of the arrested person pending initial appearance upon the furnishing of bail in the amount endorsed on the warrant. The initial appearance of a person so released shall be scheduled for a time not more than ten days after the date of release.

Sec. 4. Section 804.22, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section and the rules of criminal procedure do not affect the provisions of chapter 805 authorizing the release of a person on citation or bail prior to initial appearance. The initial appearance of a person so released shall be scheduled for a time not more than ten days after the date of release.

Sec. 5. Section 805.1,* Code 1983, is amended by striking the section and inserting in lieu thereof the following:

805.1 WHEN POLICE CITATION MAY ISSUE.

1. Except as to an offense for which an accused would not be eligible for bail after conviction pursuant to section 811.1, a law enforcement officer has authority to issue a citation in lieu of an arrest without a warrant or in lieu of continued custody after a warrantless arrest. The decision whether to issue a citation in lieu of arrest shall be made by an officer with grounds to make an arrest. The decision whether to issue a citation in lieu of continued custody after an arrest or to release the person on bail shall be made by the ranking officer on duty.

2. The citation procedure for traffic and other violations designated as scheduled violations is governed by sections 805.6 through 805.15.

3. A law enforcement officer who has grounds to charge a person with other simple misdemeanors shall issue a citation in lieu of arrest or, if an arrest has been made, the ranking officer on duty shall issue a citation or shall release the person pursuant to pretrial release guidelines or a bond schedule promulgated pursuant to section 804.21, subsection 1, in lieu of

*See also ch 51, §6

keeping the person in custody. This requirement does not apply, and the officer may arrest or retain a person in custody in any of the following situations:

- a. When the person refuses or fails to offer satisfactory identification.
- b. When the person refuses to sign the citation.
- c. When detention is reasonably necessary to prevent bodily harm to the accused or to another.
- d. When the person appears to be under the influence of intoxicants or drugs and no one is available to take responsibility for the person's custody and safety.
- e. When the person has insufficient ties to the jurisdiction, or a contiguous jurisdiction, to assure the person's appearance and a substantial likelihood exists that the person will refuse to respond to a citation.
- f. When the person previously failed to respond to a citation or to appear after release on pretrial release guidelines.

4. In other cases in which a citation is authorized, a law enforcement officer who has grounds to make an arrest may instead issue a citation or, after arrest, the ranking officer on duty may issue a citation or may release the person pursuant to pretrial release guidelines or a bond schedule promulgated pursuant to section 804.21, subsection 1, in lieu of continued custody. In determining whether to issue a citation the officer shall consider the safety of the community and all of the following facts concerning the person:

- a. Place and length of residence.
- b. Family relationships.
- c. References.
- d. Present and past employment.
- e. Criminal record.
- f. Nature and circumstances of the alleged offense.
- g. Other facts relevant to the likelihood of the person's response to a citation.

In making this decision, the officer shall follow the recommendations of the pretrial release services of the judicial district department of correctional services, when available.

5. The issuance of a citation in lieu of arrest or continued custody does not affect the officer's authority to conduct an otherwise lawful search. The issuance of a citation in lieu of arrest shall be deemed an arrest for purposes of the speedy indictment requirements of R.Cr.P. 27, subsection 2, paragraph a, Ia. Ct. Rules, 2d ed.

6. Even if a citation is issued, the officer has authority to take the cited person to an appropriate medical facility if the person reasonably appears to need such care.

7. When an officer determines pursuant to subsection 3 or 4 that a citation should not be issued, the officer has authority to release the arrested person on bail or on other conditions as determined by the supreme court in pretrial release guidelines promulgated pursuant to section 804.21, subsection 1. In following the pretrial release guidelines the officer shall follow the recommendations of the pretrial release services of the judicial district department of correctional services, when available. When the arrested person furnishes bail, the officer shall maintain it in safekeeping and shall turn it over to the clerk of court not later than during the next subsequent regular business day that the clerk's office is open.

8. When the offense is one for which citation is not authorized, the person does not meet the pretrial release criteria and the person is not releasable under a bond schedule, the person may be released on bail or otherwise only after initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure.

Sec. 6. Section 811.2, Code 1983, is amended by adding the following new subsection 3 and renumbering the remaining subsections:

NEW SUBSECTION. 3. This chapter does not preclude the release of an arrested person as authorized by section 804.21.

Sec. 7. This Act, being deemed of immediate importance, takes effect from and after its publication in the Quad City Times, a newspaper published in Davenport, Iowa, and in The Onawa Sentinel, a newspaper published in Onawa, Iowa.

Approved April 28, 1983

I hereby certify that the foregoing Act, Senate File 334, was published in the Quad City Times, Davenport, Iowa on May 5, 1983 and in The Onawa Sentinel, Onawa, Iowa on May 5, 1983.

MARY JANE ODELL, *Secretary of State*

CHAPTER 51
INCARCERATION IN CORRECTION FACILITIES
S.F. 503

AN ACT relating to persons who are or may be incarcerated in correctional facilities.

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

Section 1. **NEW SECTION. 247A.11 WORK RELEASE VIOLATORS – REIMBURSEMENT TO THE DIVISION OF ADULT CORRECTIONS FOR TRANSPORTATION COSTS.** A work release client who escapes or participates in an act of absconding from the facility the client is assigned to shall reimburse the division of adult corrections for the cost of transportation incurred because of the escape or act of absconding. The amount of reimbursement shall be the actual cost incurred by the division and shall be credited to the support account from which the billing occurred. The director of the division of adult corrections shall recommend rules pursuant to chapter 17A, subject to approval by the council of social services pursuant to section 217.3, subsection 6, to implement this section.

Sec. 2. Chapter 218, Code 1983, is amended by adding the following new section:
NEW SECTION. CONFISCATION OF CONTRABAND CURRENCY.

1. Except as provided for by the director of the division of adult corrections by rule, it is unlawful for an inmate of one of the penal or correctional facilities under the division of adult corrections to possess United States or foreign currency in the penal or correctional facility.

2. The director of the division of adult corrections shall adopt rules as to circumstances under which the possession of currency by an inmate of a penal or correctional facility under the division, is authorized.

3. The division of adult corrections may confiscate currency unlawfully possessed in violation of this section. Money confiscated pursuant to this section shall be deposited in a special fund in the state treasury which fund shall be established by the treasurer of state. Money deposited in the fund may be drawn upon by the division of adult corrections to pay for expenses incurred in operating the division's penal and correctional facilities and programs.

Sec. 3. Section 246.18, Code 1983, is amended to read as follows: