

Sec. 2. SUPPLEMENTAL EXPENSE PAYMENT. If the amendments adopted by the department of human services in 1993 through 1995 in 441 Iowa administrative code, rules 22.1 and 24.1, which revise the definition of the term "persons with mental retardation," have the result of increasing costs to a county during the fiscal period beginning July 1, 1993, and ending June 30, 1995, the county shall report the increased costs to the department of human services. The department shall compile the county reports of increased costs to develop a total of the increased costs submitted by counties pursuant to this section. The total increased costs shall be included in a report submitted to the governor and the general assembly for budget consideration during the 1996 legislative session. If the total increased costs exceeds \$2,000,000, the report shall include a recommendation for a supplemental appropriation for the amount in excess of \$2,000,000 to be used for a supplemental expense payment to counties. The amount of a county's supplemental expense payment would be equal to the amount of the county's proportion of the total of the increased costs submitted applied to the amount of the supplemental appropriation. The council on human services shall adopt rules in consultation with the state-county management committee to establish forms and other requirements implementing the provisions of this section.

Approved May 25, 1995

CHAPTER 191

CRIMINAL AND JUVENILE JUSTICE

H.F. 528

†AN ACT relating to criminal and juvenile justice, including authorizing the suspension of the juvenile's motor vehicle license, authorizing a criminal justice agency to retain a copy of a juvenile's fingerprint card, providing that certain identifying information regarding juveniles involved in delinquent acts is a public record, exempting certain offenses from the jurisdiction of the juvenile court, placing a juvenile in short-term secure custody as a dispositional alternative, waiving a juvenile to adult court, the release or detention of certain criminal defendants pending sentencing or appeal following conviction, limiting the circumstances under which a juvenile may consume alcoholic beverages, providing for notice to parents when a juvenile is taken into custody for alcohol offenses, authorizing school districts to adopt a dress code policy, adding custody and adjudication information regarding juveniles to state criminal history files, establishing a juvenile justice task force, and enhancing or establishing penalties.

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

Section 1. Section 22.7, subsection 13, Code 1995, is amended to read as follows:

13. The records of a library which, by themselves or when examined with other public records, would reveal the identity of the library patron checking out or requesting an item or information from the library. The records shall be released to a criminal or juvenile justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The records shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.

Sec. 2. Section 80.9, subsection 2, paragraph d, Code 1995, is amended to read as follows:

d. To collect and classify, and keep at all times available, complete information useful for the detection of crime, and the identification and apprehension of criminals.

†Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

Such information shall be available for all peace officers within the state, under such regulations as the commissioner may prescribe. The provisions of chapter 141 do not apply to the entry of human immunodeficiency virus-related information by criminal or juvenile justice agencies, as defined in section 692.1, into the Iowa criminal justice information system or the national crime information center system. The provisions of chapter 141 also do not apply to the transmission of the same information from either or both information systems to criminal or juvenile justice agencies. The provisions of chapter 141 also do not apply to the transmission of the same information from either or both information systems to employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the jurisdiction of the department of human services, and employees of city and county jails, if those employees have direct physical supervision over inmates of those facilities or institutions. Human immunodeficiency virus-related information shall not be transmitted over the police radio broadcasting system under chapter 693 or any other radio-based communications system. An employee of an agency receiving human immunodeficiency virus-related information under this section who communicates the information to another employee who does not have direct physical supervision over inmates, other than to a supervisor of an employee who has direct physical supervision over inmates for the purpose of conveying the information to such an employee, or who communicates the information to any person not employed by the agency or uses the information outside the agency is guilty of a class "D" felony. The commissioner shall adopt rules regarding the transmission of human immunodeficiency virus-related information including provisions for maintaining confidentiality of the information. The rules shall include a requirement that persons receiving information from the Iowa criminal justice information system or the national crime information center system receive training regarding confidentiality standards applicable to the information received from the system. The commissioner shall develop and establish, in cooperation with the department of corrections and the Iowa department of public health, training programs and program criteria for persons receiving human immunodeficiency virus-related information through the Iowa criminal justice information system or the national crime information center system.

Sec. 3. Section 123.47, Code 1995, is amended to read as follows:

123.47 PERSONS UNDER THE AGE OF EIGHTEEN – PENALTY.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under the age of eighteen, and a person or persons under the age of eighteen shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under the age of eighteen within a private home and with the knowledge, presence, and consent of the parent or guardian, ~~or with the signed, written consent of the parent or guardian specifying the date and place for the consumption and displayed by the person upon demand,~~ for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under the age of eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter. A person, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer shall pay a twenty-five dollar penalty.

Sec. 4. Section 123.47B, Code 1995, is amended to read as follows:

123.47B PARENTAL AND SCHOOL NOTIFICATION – PERSONS UNDER EIGHTEEN YEARS OF AGE.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of alcoholic liquor, wine, or beer in violation of

section 123.47 and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested or a citation is issued pursuant to section 805.16, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 5. Section 124.415, Code 1995, is amended to read as follows:

124.415 PARENTAL AND SCHOOL NOTIFICATION – PERSONS UNDER EIGHTEEN YEARS OF AGE.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of a controlled substance, counterfeit substance, or simulated controlled substance in violation of this chapter, and if the person is not referred to juvenile court the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. ~~A juvenile court officer may also notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody.~~ A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 6. Section 124.416, Code 1995, is amended to read as follows:

124.416 EXCEPTION TO NONBAILABLE OFFENSE.

Notwithstanding section 811.1, the court, ~~in its discretion,~~ after making the finding required by section 811.1, subsection 3, may admit a person convicted of a violation of section 124.401, subsection 1 or 2, or of a violation of section 124.406, to bail if the prosecuting attorney in the action and the defendant's counsel jointly petition the court to admit the person to bail.

Sec. 7. Section 232.2, subsection 10, Code 1995, is amended to read as follows:

10. "Criminal or juvenile justice agency" means any agency which has as its primary responsibility the enforcement of the state's criminal laws or of local ordinances made pursuant to state law.

Sec. 8. Section 232.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Violations by a child, age sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph "e" or "f", or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1.

Sec. 9. Section 232.22, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A dispositional order has been entered under section 232.52 placing the child in secure custody in a facility defined in subsection 2, paragraph "a" or "b".

Sec. 10. Section 232.28, subsection 10, Code 1995, is amended to read as follows:

10. A complaint filed with the court or its designee pursuant to this section which alleges that a child ~~fourteen years of age or older~~ has committed a delinquent act which if committed by an adult would be an aggravated misdemeanor or a felony shall be a public record and shall not be confidential under section 232.147. The court, its designee, or law enforcement officials are authorized to release the complaint, including the identity of the child named in the complaint.

Sec. 11. Section 232.29, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The person performing the duties of intake officer shall notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school which the child attends, of any informal adjustment regarding the child, fourteen years of age or older, for an act which would be an aggravated misdemeanor or felony if committed by an adult.

Sec. 12. Section 232.45A, Code 1995, is amended to read as follows:

232.45A WAIVER TO AND CONVICTION BY DISTRICT COURT - PROCESSING.

1. Once jurisdiction over a child has been waived by the juvenile court as provided in section 232.45, for the alleged commission of a felony, and once a conviction is entered by the district court, for all other offenses, the clerk of the juvenile court shall immediately send a certified copy of the findings required by section 232.45, subsection 8, and the judgment of conviction, as applicable, to the department of public safety. The department shall maintain a file on each child who has previously been waived to or waived to and convicted by the district court in a prosecution as an adult. The file shall be accessible by law enforcement officers on a twenty-four hour per day basis.

2. Once a child sixteen years of age or older has been waived to and convicted of an aggravated misdemeanor or a felony by in the district court, all criminal proceedings against the child for any aggravated misdemeanor or felony occurring subsequent to the date of the conviction of the child shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by section 232.45, subsection 8, shall be made a part of the record in the district court proceedings.

3. If proceedings against a child for an aggravated misdemeanor or a felony who has previously been waived to and convicted of such an offense by aggravated misdemeanor or a felony in the district court are mistakenly begun in the juvenile court, the matter shall be transferred to district court upon the discovery of the prior waiver and conviction, notwithstanding sections 232.8 and 232.45.

Sec. 13. Section 232.52, subsection 2, paragraph a, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) The suspension of the motor vehicle license or operating privilege of the child for a period not to exceed one year. The order shall state whether a work permit may or shall not be issued to the child.

Sec. 14. Section 232.52, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. An order placing a child in secure custody for not more than two days in a facility under section 232.22, subsection 2, paragraph "a" or "b".

Sec. 15. Section 232.147, subsection 2, Code 1995, is amended to read as follows:

2. Official juvenile court records in cases alleging delinquency, including complaints

under section 232.28, shall be public records, subject to sealing under section 232.150. If the court has excluded the public from a hearing under division II of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter. Complaints under section 232.28 shall be released in accordance with section 232.28. Other official juvenile court records may be released under this section by a juvenile court officer.

Sec. 16. Section 232.148, subsections 1 and 2, are amended to read as follows:

1. Except as provided in this section, a child shall not be fingerprinted or photographed by a criminal or juvenile justice agency after the child is taken into custody.

2. Fingerprints and photographs of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal or juvenile justice agency investigating the commission of a public offense other than a simple or serious misdemeanor. The criminal justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system and may also retain a copy of the fingerprint card for comparison with latent fingerprints and the identification of repeat offenders. However, unless otherwise authorized pursuant to section 232.45A or 690.4, or as otherwise authorized by law, a criminal history record shall not be created for inclusion in an automated system due to the retention of fingerprints pursuant to this section.

Sec. 17. Section 232.148, subsection 5, paragraph c, Code 1995, is amended by striking the paragraph.

Sec. 18. Section 232.149, subsection 2, Code 1995, is amended to read as follows:

2. Records and files of a criminal or juvenile justice agency concerning a child ~~other than fingerprint and photograph records and files shall not be open to inspection and their contents shall not be disclosed except as provided in this section and~~ involved in a delinquent act are public records, except that a criminal or juvenile justice agency shall not release the name of a child until a complaint is filed pursuant to section 232.28 and criminal history data is subject to the provisions of chapter 692. The records are subject to sealing under section 232.150 unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for a public offense.

Sec. 19. Section 232.149, subsections 3 through 6, Code 1995, are amended by striking the subsections.

Sec. 20. NEW SECTION. 279.58 SCHOOL DRESS CODE POLICIES.

1. The general assembly finds and declares that the students and the administrative and instructional staffs of Iowa's public schools have the right to be safe and secure at school. Gang-related apparel worn at school draws attention away from the school's learning environment and directs it toward thoughts or expressions of violence, bigotry, hate, and abuse.

2. The board of directors of a school district may adopt, for the district or for an individual school within the district, a dress code policy that prohibits students from wearing gang-related or other specific apparel if the board determines that the policy is necessary for the health, safety, or positive educational environment of students and staff in the school environment or for the appropriate discipline and operation of the school. Adoption and enforcement of a dress code policy is not a violation of section 280.22.

Sec. 21. NEW SECTION. 280.17A PROCEDURES FOR HANDLING DANGEROUS WEAPONS.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures requiring school officials to report to local law enforcement agencies any dangerous weapon, as defined in section 702.7, possessed on school premises in violation of school policy or state law.

Sec. 22. **NEW SECTION.** 280.17B STUDENTS SUSPENDED OR EXPELLED FOR POSSESSION OF DANGEROUS WEAPONS.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion.

Sec. 23. **NEW SECTION.** 280.21B EXPULSION – WEAPONS IN SCHOOL.

The board of directors of a school district and the authorities in charge of a nonpublic school which receives services supported by federal funds shall expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school or knowingly possessed a weapon at a school under the jurisdiction of the board or the authorities. However, the superintendent or chief administering officer of a school or school district may modify expulsion requirements on a case-by-case basis. This section shall not be construed to prevent the board of directors of a school district or the authorities in charge of a nonpublic school that have expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting. If both this section and section 282.4 apply, this section takes precedence over section 282.4. For purposes of this section, "weapon" means a firearm as defined in 18 U.S.C. § 921. This section shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

Sec. 24. Section 331.653, subsection 58, Code 1995, is amended to read as follows:

58. Report information on crimes committed and delinquent acts committed, which would be an aggravated misdemeanor or felony if committed by an adult, and furnish disposition reports on persons arrested and juveniles taken into custody, for a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, and criminal complaints or information or juvenile delinquency petitions, alleging a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, filed in any court as provided in section 692.15.

Sec. 25. Section 507.10, subsection 4, paragraph b, subparagraph (1), unnumbered paragraph 2, Code 1995, is amended to read as follows:

This section does not require the division of insurance to disclose any information or records which would indicate or show the existence of any investigation or activity of a criminal or juvenile justice agency.

Sec. 26. Section 602.8102, subsection 125, Code 1995, is amended to read as follows:

125. Furnish a disposition of each criminal complaint or information or juvenile delinquency petition, alleging a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, filed in the district or juvenile court to the department of public safety as provided in section 692.15.

Sec. 27. Section 690.5, unnumbered paragraph 2, Code 1995, is amended to read as follows:

If a criminal or juvenile justice agency subject to fingerprinting and disposition requirements fails to comply with the requirements, the commissioner of public safety shall order that the agency's access to criminal history record information maintained by the repository be denied or restricted until the agency complies with the reporting requirements.

Sec. 28. Section 692.1, Code 1995, is amended by adding the following new subsection before subsection 1 and renumbering the subsequent subsection:

NEW SUBSECTION. 1. "Adjudication data" means information that an adjudication of delinquency for an act which would be an aggravated misdemeanor or felony if committed by an adult was entered against a juvenile and includes the date and location of the delinquent act and the place and court of adjudication.

Sec. 29. Section 692.1, subsection 5, Code 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Adjudication data.

NEW PARAGRAPH. f. Custody data.

Sec. 30. Section 692.1, subsection 7, Code 1995, is amended to read as follows:

7. "Criminal or juvenile justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

Sec. 31. Section 692.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Custody data" means information pertaining to the taking into custody, pursuant to section 232.19, of a juvenile for a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, and includes the date, time, place, and facts and circumstances of the delinquent act. Custody data includes warrants for the taking into custody for all delinquent acts outstanding and not served and includes the filing of a petition pursuant to section 232.35, the date and place of the alleged delinquent act, and the county of jurisdiction.

Sec. 32. Section 692.2, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. Criminal or juvenile justice agencies.

Sec. 33. Section 692.2, subsection 4, Code 1995, is amended to read as follows:

4. The provisions of this section and section 692.3 which relate to the requiring of an individually identified request prior to the dissemination or redissemination of criminal history data do not apply to the furnishing of criminal history data to the federal bureau of investigation or to the dissemination or redissemination of information that an arrest warrant has been or will be issued, and other relevant information including, but not limited to, the offense or delinquent act and the date and place of alleged commission, individually identifying characteristics of the person to be arrested or taken into custody, and the court or jurisdiction issuing the warrant.

Sec. 34. Section 692.2, subsection 6, unnumbered paragraph 2, Code 1995, is amended to read as follows:

In cases in which members of the department are participating in the investigation or arrest, or where officers of other criminal or juvenile justice agencies participating in the investigation or arrest consent, the department may disseminate criminal history data and intelligence data when the dissemination complies with section 692.3.

Sec. 35. Section 692.3, subsections 1 and 3, Code 1995, are amended to read as follows:

1. A peace officer, criminal or juvenile justice agency, or state or federal regulatory agency shall not redisseminate criminal history data outside the agency, received from the department or bureau, unless all of the following apply:

a. The data is for official purposes in connection with prescribed duties of a criminal or juvenile justice agency.

b. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination.

c. The request for data is based upon name, fingerprints, or other individual identification characteristics.

3. A peace officer, criminal or juvenile justice agency, or state or federal regulatory agency shall not redisseminate intelligence data outside the agency, received from the department or bureau or from any other source, except as provided in subsection 1.

Sec. 36. Section 692.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department, bureau, or a criminal or juvenile justice agency may compile and disseminate criminal history data in the form of statistical reports derived from such information or as the basis of further study provided individual identities are not ascertainable.

Sec. 37. Section 692.8, Code 1995, is amended to read as follows:

692.8 INTELLIGENCE DATA.

Intelligence data contained in the files of the department of public safety or a criminal or juvenile justice agency may be placed within a computer data storage system, provided that access to the computer data storage system is restricted to authorized employees of the department or criminal or juvenile justice agency. The department shall adopt rules to implement this paragraph.

Intelligence data in the files of the department may be disseminated only to a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, and only if the department is satisfied that the need to know and the intended use are reasonable. Whenever intelligence data relating to a defendant or juvenile who is the subject of a petition under section 232.35 for the purpose of sentencing or adjudication has been provided a court, the court shall inform the defendant or juvenile or the defendant's or juvenile's attorney that it is in possession of such data and shall, upon request of the defendant or juvenile or the defendant's or juvenile's attorney, permit examination of such data.

If the defendant or juvenile disputes the accuracy of the intelligence data, the defendant or juvenile shall do so by filing an affidavit stating the substance of the disputed data and wherein it is inaccurate. If the court finds reasonable doubt as to the accuracy of such information, it may require a hearing and the examination of witnesses relating thereto on or before the time set for sentencing or adjudication.

Sec. 38. Section 692.9, Code 1995, is amended to read as follows:

692.9 SURVEILLANCE DATA PROHIBITED.

No surveillance data shall be placed in files or manual or automated data storage systems by the department or bureau or by any peace officer or criminal or juvenile justice agency. Violation of the provisions of this section shall be a public offense punishable under section 692.7.

Sec. 39. Section 692.10, Code 1995, is amended to read as follows:

692.10 RULES.

The department shall adopt rules designed to assure the security and confidentiality of all systems established for the exchange of criminal history data and intelligence data between criminal or juvenile justice agencies and for the authorization of officers or employees to access a department or agency computer data storage system in which criminal intelligence data is stored.

Sec. 40. Section 692.11, Code 1995, is amended to read as follows:

692.11 EDUCATION PROGRAM.

The department shall require an educational program for its employees and the employees of criminal or juvenile justice agencies on the proper use and control of criminal history data and intelligence data.

Sec. 41. Section 692.12, Code 1995, is amended to read as follows:

692.12 DATA PROCESSING.

Nothing in this chapter shall preclude the use of the equipment and hardware of the data processing service center for the storage and retrieval of criminal history data. Files shall be stored on the computer in such a manner as the files cannot be modified, destroyed, accessed, changed or overlaid in any fashion by noncriminal or juvenile justice agency terminals or personnel. That portion of any computer, electronic switch or manual

terminal having access to criminal history data stored in the state computer must be under the management control of a criminal or juvenile justice agency.

Sec. 42. Section 692.13, Code 1995, is amended to read as follows:

692.13 REVIEW.

The department shall initiate periodic review procedures designed to determine compliance with the provisions of this chapter within the department and by criminal or juvenile justice agencies and to determine that data furnished to them is factual and accurate.

Sec. 43. Section 692.14, Code 1995, is amended to read as follows:

692.14 SYSTEMS FOR THE EXCHANGE OF CRIMINAL HISTORY DATA.

The department shall regulate the participation by all state and local agencies in any system for the exchange of criminal history data, and shall be responsible for assuring the consistency of such participation with the terms and purposes of this chapter.

Direct access to such systems shall be limited to such criminal or juvenile justice agencies as are expressly designated for that purpose by the department. The department shall, with respect to telecommunications terminals employed in the dissemination of criminal history data, insure that security is provided over an entire terminal or that portion actually authorized access to criminal history data.

Sec. 44. Section 692.15, Code 1995, is amended to read as follows:

692.15 REPORTS TO DEPARTMENT.

1. If it comes to the attention of a sheriff, police department, or other law enforcement agency that a public offense or delinquent act has been committed in its jurisdiction, the law enforcement agency shall report information concerning ~~such a~~ the public offense or delinquent act to the department on a form to be furnished by the department not more than thirty-five days from the time the public offense or delinquent act first comes to the attention of the law enforcement agency. The reports shall be used to generate crime statistics. The department shall submit statistics to the governor, the general assembly, and the division of criminal and juvenile justice planning of the department of human rights on a quarterly and yearly basis.

2. If a sheriff, police department, or other law enforcement agency makes an arrest or takes a juvenile into custody which is reported to the department, the ~~arresting~~ law enforcement agency making the arrest or taking the juvenile into custody and any other law enforcement agency which obtains custody of the arrested person or juvenile taken into custody shall furnish a disposition report to the department if the arrested person or juvenile taken into custody is transferred to the custody of another law enforcement agency or is released without having a complaint or information or petition under section 232.35 filed with any court.

3. The law enforcement agency making an arrest and securing fingerprints pursuant to section 690.2 or taking a juvenile into custody and securing fingerprints pursuant to section 232.148 shall fill out a final disposition report on each arrest on a form and in the manner prescribed by the commissioner of public safety. The final disposition report shall be forwarded to the county attorney in the county where the arrest or taking into custody occurred.

4. The county attorney of each county shall complete the final disposition report and submit it to the department within thirty days if a preliminary information or citation is dismissed without a new charge being filed. If an indictment is returned or a county attorney's information is filed, or a petition is filed under section 232.35, the final disposition form shall be forwarded to the clerk of the district court of that county.

5. If a criminal complaint or information or petition under section 232.35 is filed in any court, the clerk shall furnish a disposition report of the case.

6. Any disposition report shall be sent to the department within thirty days after disposition on a form provided by the department.

7. The hate crimes listed in section 729A.2 are subject to the reporting requirements of this section.

Sec. 45. Section 692.16, Code 1995, is amended to read as follows:

692.16 REVIEW AND REMOVAL.

At least every year the bureau shall review and determine current status of all Iowa arrests or takings into custody reported, which are at least one year old with no disposition data. Any Iowa arrest or taking of a juvenile into custody recorded within a computer data storage system which has no disposition data after four years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

Sec. 46. Section 692.17, Code 1995, is amended to read as follows:

692.17 EXCLUSIONS - PURPOSES.

Criminal history data in a computer data storage system shall not include arrest or disposition data or custody or adjudication data after the person has been acquitted or the charges dismissed. Criminal history data shall not include custody or adjudication data after the juvenile has reached twenty-one years of age, unless the juvenile was convicted of or plead guilty to a serious or aggravated misdemeanor or felony between age eighteen and age twenty-one. For the purposes of this section, "criminal history data" includes information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data set forth in section 692.1 and also includes the source documents of the information included in the criminal history data and fingerprint records.

For the purposes of this section, "criminal history data" includes the following:

1. In the case of an adult, information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data in section 692.1, except that source documents shall be retained.

2. In the case of a juvenile, information maintained by any criminal or juvenile justice agency if the information otherwise meets the definition of criminal history data in section 692.1. In the case of a juvenile, criminal history data and source documents, other than fingerprint records, shall not be retained.

Fingerprint cards received that are used to establish a criminal history data record shall be retained in the automated fingerprint identification system when the criminal history data record is expunged.

Criminal history data may be collected for management or research purposes.

Sec. 47. Section 692.19, subsection 6, Code 1995, is amended to read as follows:

6. May conduct inquiries and investigations the commissioner finds appropriate to achieve the purposes of this chapter. Each criminal or juvenile justice agency in this state and each state and local agency otherwise authorized access to criminal history data is authorized and directed to furnish to the commissioner of public safety, upon the commissioner's request, statistical data, reports, and other information in its possession as the commissioner deems necessary to implement this chapter.

Sec. 48. Section 692.21, Code 1995, is amended to read as follows:

692.21 DATA TO ARRESTING AGENCY MAKING ARREST OR TAKING JUVENILE INTO CUSTODY.

The clerk of the district court shall forward conviction and disposition data to the criminal justice agency making the arrest or taking a juvenile into custody within thirty days of final court disposition of the case.

Sec. 49. Section 708.1, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Provided, that where the person doing any of the above enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation, that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function regardless

of the location, the act shall not be an assault, whether the fight or physical struggle or other disruptive situation is between students or other individuals if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

Sec. 50. Section 709A.6, subsection 2, Code 1995, is amended to read as follows:

2. It is unlawful for a person to act with, enter into a common scheme or design with, conspire with, recruit or use a person under the age of eighteen, through threats, monetary payment, or other means, to commit an indictable offense for the profit of the person acting with, entering into the common scheme or design with, conspiring with, recruiting or using the juvenile. A person who violates this section commits a class "D" "C" felony.

Sec. 51. Section 723A.1, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. An offense constituting a violation of chapter 724.

Sec. 52. NEW SECTION. 723A.3 GANG RECRUITMENT - PENALTY.

1. A person who solicits, recruits, entices, or intimidates a minor to join a criminal street gang commits a class "C" felony.

2. A person who conspires to solicit, recruit, entice, or intimidate a minor to join a criminal street gang commits a class "D" felony.

Sec. 53. NEW SECTION. 724.4B CARRYING WEAPONS ON SCHOOL GROUNDS - PENALTY - EXCEPTIONS.

1. A person who goes armed with, carries, or transports a firearm of any kind, whether concealed or not, on the grounds of a school commits a class "D" felony. For the purposes of this section, "school" means a public or nonpublic school as defined in section 280.2.

2. Subsection 1 does not apply to the following:

- a. A person listed under section 724.4, subsection 4, paragraphs "b" through "f" or "j".
- b. A person who has been specifically authorized by the school to go armed, carry, or transport a firearm on the school grounds, including for purposes of conducting an instructional program regarding firearms.

Sec. 54. NEW SECTION. 803.6 TRANSFER OF JURISDICTION - JUVENILE.

1. The court, in the case of a juvenile who is alleged to have committed a criminal offense listed in section 232.8, subsection 1, paragraph "c", may direct a juvenile court officer to provide a report regarding whether the child should be transferred to juvenile court for adjudication and disposition as a juvenile.

2. If the court believes that transfer may be appropriate the court shall hold a hearing on whether the child should be transferred. A notice of the time and place of the transfer hearing shall be given to all parties to the case. Prior to the hearing, the court shall provide the defendant's counsel and the county attorney with access to the report provided by the juvenile court officer and to all written material to be considered by the court.

3. After the hearing, the court may transfer jurisdiction to the juvenile court if the court determines that waiver to the criminal court would be inappropriate under the criteria set forth in section 232.45, subsection 6, paragraph "c", and section 232.45, subsection 7.

4. If after the hearing the court transfers jurisdiction over the defendant to the juvenile court for the alleged commission of the public offense, the court shall forward the transfer order together with all papers, documents, and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court in the same manner as provided in section 232.8, subsection 2.

5. A defendant transferred to the jurisdiction of the juvenile court shall be placed in detention under section 232.22.

Sec. 55. Section 808A.1, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. A school locker, desk, or other facility or space issued or assigned to, or chosen by, the student for the storage of personal belongings of any kind, which the student locks or is permitted to lock. ~~School officials may conduct periodic inspections of all school lockers. However, the school district shall provide notice to the students, at least twenty-four hours prior to the inspection, of the date and time of the inspection.~~

Sec. 56. Section 808A.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding subsection 1, paragraphs "a" through "c", as they apply to searches of protected student areas, school officials may conduct periodic inspections of all, or a randomly selected number of, school lockers. However, the school district shall provide written notice to each student, and the adult who enrolls the student at the school, that school officials may conduct periodic inspections of all school lockers without prior notice. An inspection under this subsection shall only occur in the presence of the students whose lockers are being inspected.

Sec. 57. **TASK FORCE.** A youthful offender jurisdiction task force is established to develop a plan for a seamless system of shared jurisdiction between courts presiding over both juvenile and criminal proceedings. The intent of this shared jurisdiction would be to improve sanctions and interventions for juveniles who commit serious crimes.

The membership of the task force shall consist of the director of the department of corrections or the director's designee; the attorney general or the attorney general's designee; a director of a judicial district department of correctional services designated by the governor; the director of human services or the director's designee; the administrator of the criminal and juvenile justice planning division of the department of human rights or the administrator's designee; a chief juvenile court officer, a judge currently handling primarily juvenile cases, and a judge currently handling primarily criminal cases designated by the governor in consultation with the chief justice of the supreme court; the state public defender or the state public defender's designee; a faculty member at a college or university in Iowa which offers a major in criminology and criminalistics who has expertise in juvenile justice issues; two members of the senate, one each appointed by the majority and minority leaders and two members of the house of representatives, appointed by the speaker of the house of representatives after consultation with the majority and minority leaders; and a county attorney designated by the governor.

In developing its plan, the task force shall review the youthful offender program plan prepared by the department of corrections pursuant to 1990 Iowa Acts, chapter 1239, and the provisions for a youthful offender program as proposed in 1992 Iowa Acts, chapter 1231. The task force's plan shall include recommendations to implement policies and procedures that allow for the provision of supervision and services to persons whose jurisdiction begins in juvenile court, but who, because of the nature of their offense and their responsiveness to juvenile court dispositions, require services and supervision beyond current juvenile court jurisdiction time limits. The plan also shall identify the impact of its recommendations on the caseloads and resources of the courts, the department of human services, the department of corrections, the judicial district departments of correctional services, and other affected state and local agencies and programs.

The division of criminal and juvenile justice planning of the department of human rights shall convene and coordinate the activities of the task force. The task force shall submit its plan to the governor and general assembly by October 1, 1995.

Sec. 58. 1995 Iowa Acts, House File 471,* section 7, is amended to read as follows:

SEC. 7. INTERIM STUDY COMMITTEE. The legislative council is requested to establish an interim committee to study currently available sentencing and incarceration options. The study may include but shall not be limited to a review of available jail, community corrections, and prison beds; the potential impact of the use of split sentencing on jail, community corrections, and prison bed space; security needs and costs associated with

*House File 471 vetoed by the governor

the implementation of hard labor requirements for persons incarcerated in corrections institutions; ~~and the nature and costs associated with other sentencing options and the utilization, cost, and effectiveness of placing a juvenile in secure custody under section 232.52, subsection 2, paragraph "g", if enacted in House File 528.~~ The committee shall coordinate the study with juvenile court services personnel to obtain the information regarding juveniles. A report regarding placing juveniles in secure custody shall be made to the general assembly by January 1, 1996. A follow-up report shall be made by June 30, 1996. In addition to legislative members, the membership of the interim committee shall include the following public members:

1. A representative from the board of parole.
 2. A representative from the division of criminal and juvenile justice planning of the department of human rights.
 3. A representative from an association of sheriffs and deputy sheriffs.
 4. A representative from the department of corrections.
 5. A representative from a county board of supervisors.
- The committee shall submit findings and any recommendations in a report to the general assembly by January 1, 1996.

Approved May 25, 1995

CHAPTER 192

PIPELINES AND UNDERGROUND HAZARDOUS LIQUID STORAGE

H.F. 303

AN ACT relating to pipelines and underground storage of hazardous liquids, and providing penalties and effective and retroactive applicability date provisions.

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

Section 1. Section 6B.42, subsection 1, Code 1995, is amended to read as follows:

1. A utility or railroad subject to section 327C.2, ~~chapter 479, or chapter or chapters 476, 478, 479, and 479B,~~ authorized by law to acquire property by condemnation, which acquires the property of a person or displaces a person for a program or project which has received or will receive federal financial assistance as defined in section 316.1, shall provide to the person in addition to any other sums of money in payment of just compensation, the payments and assistance required by law, in accordance with chapter 316.

Sec. 2. Section 306A.3, Code 1995, is amended to read as follows:

306A.3 **AUTHORITY TO ESTABLISH CONTROLLED-ACCESS FACILITIES - UTILITY ACCOMMODATION POLICY.**

Cities and highway authorities having jurisdiction and control over the highways of the state, as provided by chapter 306, acting alone or in co-operation with each other or with any federal, state, or local agency or any other state having authority to participate in the construction and maintenance of highways, are ~~hereby~~ authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use ~~wherever such authority or authorities are of the opinion that~~ if traffic conditions, present or future, will justify ~~such~~ special facilities; provided, that within cities a city such authority shall be subject to ~~such~~ municipal consent as may be provided by law. ~~Said cities and highway authorities, in~~ In addition to the specific powers granted in this chapter, cities and highway authorities shall ~~also have and may exercise, relative to~~