

**NEW SUBSECTION.** 7. This section does not apply to an individual whose administrative license suspension under section 321.210C has been rescinded and who is otherwise under no obligation to furnish proof of financial responsibility.

Sec. 3. Section 902.12, Code 1997, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Except as otherwise provided in section 903A.2, a person serving a sentence for conviction under section 707.6A, subsection 1 or 2, shall serve one hundred percent of the maximum term of the person's sentence and shall not be released on parole or work release, if the person was also convicted under section 321.261, subsection 3, based on the same facts or event that resulted in the conviction under section 707.6A, subsection 1 or 2.

Approved April 13, 1998

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## CHAPTER 1089

### IOWA COMMUNICATIONS NETWORK CONNECTION

H.F. 2476

**AN ACT** providing for connection to the Iowa communications network by the quad cities graduate center.

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

Section 1. **ADDITIONAL CONNECTION.** Notwithstanding contrary provisions of chapter 8D, the Iowa telecommunications and technology commission shall provide for the construction of a connection to the network for the quad cities graduate center. The center shall be responsible for the costs associated with the connection to the network. The commission shall establish all hourly rates to be charged to the quad cities graduate center at an appropriate rate so that, at a minimum, there is no state subsidy related to the costs of the connection or use of the network by the center.

Approved April 13, 1998

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## CHAPTER 1090

### VICTIM RIGHTS ACT

H.F. 2527

**AN ACT** providing for victim rights, providing for penalties, and an effective date.

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

Section 1. **NEW SECTION.** 915.1 TITLE.

This chapter shall be known and may be cited as "Victim Rights Act".

Sec. 2. NEW SECTION. 915.2 IMMUNITY.

This chapter does not create a civil cause of action except where expressly stated, and a person is not liable for damages resulting from an act or omission in regard to any responsibility or authority created by this chapter, and such acts or omissions shall not be used in any proceeding for damages. This section does not apply to acts or omissions which constitute a willful and wanton disregard for the rights or safety of another.

Sec. 3. NEW SECTION. 915.3 IMMUNITY — CITIZEN INTERVENTION.

Any person who, in good faith and without remuneration, renders reasonable aid or assistance to another against whom a crime is being committed or, if rendered at the scene of the crime, to another against whom a crime has been committed, is not liable for any civil damages for acts or omissions resulting from the aid or assistance, and is eligible to file a claim for reimbursement as a victim under this chapter.

Sec. 4. Sections 915.10 through 915.23, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Registration, Notification, and Rights in Criminal Proceedings".

Sec. 5. NEW SECTION. 915.10 DEFINITIONS.

As used in this subchapter, unless the context otherwise requires:

1. "Notification" means mailing by regular mail or providing for hand delivery of appropriate information or papers. However, this notification procedure does not prohibit an agency from also providing appropriate information to a registered victim by telephone.

2. "Registered" means having provided the county attorney with the victim's written request for registration and current mailing address and telephone number.

3. "Victim" means a person who has suffered physical, emotional, or financial harm as the result of a public offense, other than a simple misdemeanor, committed in this state. "Victim" also includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

4. "Victim impact statement" means a written or oral presentation to the court by the victim or the victim's representative that indicates the physical, emotional, financial, or other effects of the offense upon the victim.

5. "Violent crime" means a forcible felony, as defined in section 702.11, and includes any other felony or aggravated misdemeanor which involved the actual or threatened infliction of physical or emotional injury on one or more persons.

Sec. 6. NEW SECTION. 915.11 INITIAL NOTIFICATION BY LAW ENFORCEMENT.

A local police department or county sheriff's department shall advise a victim of the right to register with the county attorney, and shall provide a request-for-registration form to each victim.

Sec. 7. NEW SECTION. 915.12 REGISTRATION.

1. The county attorney shall be the sole registrar of victims under this subchapter.

2. A victim may register by filing a written request-for-registration form with the county attorney. The county attorney shall notify the victims in writing and advise them of their registration and rights under this subchapter.

3. The county attorney shall provide a registered victim list to the offices, agencies, and departments required to provide information under this subchapter for notification purposes.

4. Notwithstanding chapter 22 or any other contrary provision of law, a victim's registration shall be strictly maintained in a separate confidential file, and shall be available only to the offices, agencies, and departments required to provide information under this subchapter.

Sec. 8. NEW SECTION. 915.13 NOTIFICATION BY COUNTY ATTORNEY.

1. The county attorney shall notify a victim registered with the county attorney's office of the following:

a. The scheduled date, time, and place of trial, and the cancellation or postponement of a court proceeding that was expected to require the victim's attendance, in any criminal case relating to the crime for which the person is a registered victim.

b. The possibility of assistance through the crime victim compensation program, and the procedures for applying for that assistance.

c. The right to restitution for pecuniary losses suffered as a result of crime, and the process for seeking such relief.

d. The victim's right to make a victim impact statement, in one or both of the following formats:

(1) Written victim impact statement. Notification shall include the procedures for filing such a statement.

(2) Oral victim impact statement, delivered in court in the presence of the defendant. The victim shall also be notified of the time and place for such statement.

e. The date on which the offender is released on bail or appeal, pursuant to section 811.5.

f. Except where the prosecuting attorney determines that disclosure of such information would unreasonably interfere with the investigation, at the request of the registered victim, notice of the status of the investigation shall be provided by law enforcement authorities investigating the case, until the alleged assailant is apprehended or the investigation is closed.

g. The right to be informed of any plea agreements related to the crime for which the person is a registered victim.

2. The county attorney and the juvenile court shall coordinate efforts so as to prevent duplication of notification under this section and section 915.24.

Sec. 9. NEW SECTION. 915.14 NOTIFICATION BY CLERK OF THE DISTRICT COURT.

The clerk of the district court shall notify a registered victim of all dispositional orders of the case in which the victim was involved and may advise the victim of any other orders regarding custody or confinement.

Sec. 10. NEW SECTION. 915.15 NOTIFICATION BY DEPARTMENT OF JUSTICE.

The department of justice shall notify a registered victim of the filing of an appeal, the expected date of decision on the appeal as the information becomes available to the department, all dispositional orders in the appeal, and the outcome of the appeal of a case in which the victim was involved.

Sec. 11. NEW SECTION. 915.16 NOTIFICATION BY LOCAL CORRECTIONAL INSTITUTIONS.

The county sheriff or other person in charge of the local jail or detention facility shall notify a registered victim of the following:

1. The offender's release from custody on bail and the terms or conditions of the release.

2. The offender's final release from local custody.

3. The offender's escape from custody.

4. The offender's transfer from local custody to custody in another locality.

Sec. 12. NEW SECTION. 915.17 NOTIFICATION BY DEPARTMENT OF CORRECTIONS.

1. The department of corrections shall notify a registered victim, regarding an offender convicted of a violent crime and committed to the custody of the director of the department of corrections, of the following:

a. The date on which the offender is expected to be released from custody on work release, and whether the offender is expected to return to the community where the registered victim resides.

b. The date on which the offender is expected to be temporarily released from custody on furlough, and whether the offender is expected to return to the community where the registered victim resides.

c. The offender's escape from custody.

d. The recommendation by the department of the offender for parole consideration.

e. The date on which the offender is expected to be released from an institution pursuant to a plan of parole or upon discharge of sentence.

f. The transfer of custody of the offender to another state or federal jurisdiction.

g. The procedures for contacting the department to determine the offender's current institution of residence.

h. Information which may be obtained upon request pertaining to or the procedures for obtaining information upon request pertaining to the offender's current employer.

2. The director of the department of corrections, or the director's designee, having probable cause to believe that a person has escaped from a state correctional institution or a person convicted of a forcible felony who is released on work release has absconded from a work release facility shall:

a. Make a complaint before a judge or magistrate. If it is determined from the complaint or accompanying affidavits that there is probable cause to believe that the person has escaped from a state correctional institution or that the forcible felon has absconded from a work release facility, the judge or magistrate shall issue a warrant for the arrest of the person.

b. Issue an announcement regarding the fact of the escape of the person or the abscondence of the forcible felon to the law enforcement authorities in, and to the news media covering, communities in a twenty-five mile radius of the point of escape or abscondence.

**Sec. 13. NEW SECTION. 915.18 NOTIFICATION BY BOARD OF PAROLE.**

1. The board of parole shall notify a registered victim regarding an offender who has committed a violent crime as follows:

a. Not less than twenty days prior to conducting a hearing at which the board will interview an offender, the board shall notify the victim of the interview and inform the victim that the victim may submit the victim's opinion concerning the release of the offender in writing prior to the hearing or may appear personally or by counsel at the hearing to express an opinion concerning the offender's release.

b. Whether or not the victim appears at the hearing or expresses an opinion concerning the offender's release on parole, the board shall notify the victim of the board's decision regarding release of the offender.

2. Offenders who are being considered for release on parole may be informed of a victim's registration with the county attorney and the substance of any opinion submitted by the victim regarding the release of the offender.

3. If the board of parole makes a recommendation to the governor for a reprieve, pardon, or commutation of sentence of an offender, as provided in section 914.3, the board shall forward with the recommendation information identifying a registered victim for the purposes of notification by the governor as required in section 915.19.

**Sec. 14. NEW SECTION. 915.19 NOTIFICATION BY THE GOVERNOR.**

1. Prior to the governor granting a reprieve, pardon, or commutation to an offender convicted of a violent crime, the governor shall notify a registered victim that the victim's offender has applied for a reprieve, pardon, or commutation. The governor shall notify a registered victim regarding the application not less than forty-five days prior to issuing a decision on the application. The governor shall inform the victim that the victim may submit a written opinion concerning the application.

2. The county attorney may notify an offender being considered for a reprieve, pardon, or commutation of sentence of a victim's registration with the county attorney and the substance of any opinion submitted by the victim concerning the reprieve, pardon, or commutation of sentence.

Sec. 15. NEW SECTION. 915.20 PRESENCE OF VICTIM COUNSELORS.

1. As used in this section, unless the context otherwise requires:

a. "Proceedings related to the offense" means any activities engaged in or proceedings commenced by a law enforcement agency, judicial district department of correctional services, or a court pertaining to the commission of a public offense against the victim, in which the victim is present, as well as examinations of the victim in an emergency medical facility due to injuries from the public offense which do not require surgical procedures. "Proceedings related to the offense" includes, but is not limited to, law enforcement investigations, pretrial court hearings, trial and sentencing proceedings, and proceedings relating to the preparation of a presentence investigation report in which the victim is present.

b. "Victim counselor" means a victim counselor as defined in section 915.20A.

2. A victim counselor who is present as a result of a request by a victim shall not be denied access to any proceedings related to the offense.

3. This section does not affect the inherent power of the court to regulate the conduct of discovery pursuant to the Iowa rules of criminal or civil procedure or to preside over and control the conduct of criminal or civil hearings or trials.

Sec. 16. NEW SECTION. 915.20A VICTIM COUNSELOR PRIVILEGE.

1. As used in this section:

a. "Confidential communication" means information shared between a crime victim and a victim counselor within the counseling relationship, and includes all information received by the counselor and any advice, report, or working paper given to or prepared by the counselor in the course of the counseling relationship with the victim.

Confidential information is confidential information which, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the counselor is consulted by the victim.

b. "Crime victim center" means any office, institution, agency, or crisis center offering assistance to victims of crime and their families through crisis intervention, accompaniment during medical and legal proceedings, and follow-up counseling.

c. "Victim" means a person who consults a victim counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a violent crime committed against the person.

d. "Victim counselor" means a person who is engaged in a crime victim center, is certified as a counselor by the crime victim center, and is under the control of a direct services supervisor of a crime victim center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of crime. To qualify as a "victim counselor" under this section, the person must also have completed at least twenty hours of training provided by the center in which the person is engaged, by the Iowa organization of victim assistance, by the Iowa coalition against sexual abuse, or by the Iowa coalition against domestic violence, which shall include but not be limited to, the dynamics of victimization, substantive laws relating to violent crime, sexual assault, and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of crime.

2. A victim counselor shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by a victim to the counselor, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of a victim counselor be required to produce evidence of any such confidential communication, unless the victim waives this privilege in writing or disclosure of the information is compelled by a court

pursuant to subsection 7. Under no circumstances shall the location of a crime victim center or the identity of the victim counselor be disclosed in any civil or criminal proceeding.

3. If a victim is deceased or has been declared to be incompetent, this privilege specified in subsection 2 may be waived by the guardian of the victim or by the personal representative of the victim's estate.

4. A minor may waive the privilege under this section unless, in the opinion of the court, the minor is incapable of knowingly and intelligently waiving the privilege, in which case the parent or guardian of the minor may waive the privilege on the minor's behalf if the parent or guardian is not the defendant and does not have such a relationship with the defendant that the parent or guardian has an interest in the outcome of the proceeding being favorable to the defendant.

5. The privilege under this section does not apply in matters of proof concerning the chain of custody of evidence, in matters of proof concerning the physical appearance of the victim at the time of the injury or the counselor's first contact with the victim after the injury, or where the counselor has reason to believe that the victim has given perjured testimony and the defendant or the state has made an offer of proof that perjury may have been committed.

6. The failure of a counselor to testify due to this section shall not give rise to an inference unfavorable to the cause of the state or the cause of the defendant.

7. Upon the motion of a party, accompanied by a written offer of proof, a court may compel disclosure of certain information if the court determines that all of the following conditions are met:

a. The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding.

b. The probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the counseling relationship, and the treatment services.

c. The information cannot be obtained by reasonable means from any other source.

8. In ruling on a motion under subsection 7, the court, or a different judge, if the motion was filed in a criminal proceeding to be tried to the court, shall adhere to the following procedure:

a. The court may require the counselor from whom disclosure is sought or the victim claiming the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the victim and any other persons the victim is willing to have present.

b. If the court determines that the information is privileged and not subject to compelled disclosure, the information shall not be disclosed by any person without the consent of the victim.

c. If the court determines that certain information may be subject to disclosure, as provided in subsection 7, the court shall so inform the party seeking the information and shall order a subsequent hearing out of the presence of the jury, if any, at which the parties shall be allowed to examine the counselor regarding the information which the court has determined may be subject to disclosure. The court may accept other evidence at that time.

d. At the conclusion of a hearing under paragraph "c", the court shall determine which information, if any, shall be disclosed and may enter an order describing the evidence which may be introduced by the moving party and prescribing the line of questioning which may be permitted. The moving party may then offer evidence pursuant to the court order. However, no victim counselor is subject to exclusion under Iowa rule of evidence 615.

9. This section does not relate to the admission of evidence of the victim's past sexual behavior which is strictly subject to Iowa rule of evidence 412.

Sec. 17. NEW SECTION. 915.21 VICTIM IMPACT STATEMENT.

1. A victim may present a victim impact statement to the court using one or more of the following methods:

a. A victim may file a signed victim impact statement with the county attorney, and a filed impact statement shall be included in the presentence investigation report. If a presentence investigation report is not ordered by the court, a filed victim impact statement shall be provided to the court prior to sentencing.

b. A victim may orally present a victim impact statement at the sentencing hearing, in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

c. If the victim is unable to make an oral or written statement because of the victim's age, or mental, emotional, or physical incapacity, the victim's attorney or a designated representative shall have the opportunity to make a statement on behalf of the victim.

2. A victim impact statement shall include the identification of the victim of the offense, and may include the following:

a. Itemization of any economic loss suffered by the victim as a result of the offense. For purposes of this paragraph, a pecuniary damages statement prepared by a county attorney pursuant to section 910.3 may serve as the itemization of economic loss.

b. Identification of any physical injury suffered by the victim as a result of the offense with detail as to its seriousness and permanence.

c. Description of any change in the victim's personal welfare or familial relationships as a result of the offense.

d. Description of any request for psychological services initiated by the victim or the victim's family as a result of the offense.

e. Any other information related to the impact of the offense upon the victim.

Sec. 18. NEW SECTION. 915.22 CIVIL INJUNCTION TO RESTRAIN HARASSMENT OR INTIMIDATION OF VICTIMS OR WITNESSES.

1. Upon application, the court shall issue a temporary restraining order prohibiting the harassment or intimidation of a victim or witness in a criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment or intimidation of an identified victim or witness in a criminal case exist or that the order is necessary to prevent and restrain an offense under this subchapter.

a. A temporary restraining order may be issued under this subsection without written or oral notice to the adverse party or the party's attorney in a civil action under this section or in a criminal case if the court finds, upon written certification of facts, that the notice should not be required and that there is a reasonable probability that the party will prevail on the merits. The temporary restraining order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

b. A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed immediately in the office of the clerk of the district court issuing the order.

c. A temporary restraining order issued under this section shall expire at such time as the court directs, not to exceed ten days from issuance. The court, for good cause shown before expiration of the order, may extend the expiration date of the order for up to ten days, or for a longer period agreed to by the adverse party.

d. When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. If the party does not proceed with the application for a protective order when the motion is heard, the court shall dissolve the temporary restraining order.

e. If, after two days' notice to the party or after a shorter notice as the court prescribes, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine the motion as expeditiously as possible.

2. Upon motion of the party, the court shall issue a protective order prohibiting the harassment or intimidation of a victim or witness in a criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment or intimidation of an identi-

fied victim or witness in a criminal case exists or that the order is necessary to prevent and restrain an offense under this chapter.

a. At the hearing, any adverse party named in the complaint has the right to present evidence and cross-examine witnesses.

b. A protective order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

c. The court shall set the duration of the protective order for the period it determines is necessary to prevent the harassment or intimidation of the victim or witness, but the duration shall not be set for a period in excess of one year from the date of the issuance of the order. The party, at any time within ninety days before the expiration of the order, may apply for a new protective order under this section.

3. Violation of a restraining or protective order issued under this section constitutes contempt of court and may be punished by contempt proceedings.

4. An application may be made pursuant to this section in a criminal case, and if made, a district associate judge or magistrate having jurisdiction of the highest offense charged in the criminal case or a district judge shall have jurisdiction to enter an order under this section.

5. The clerk of the district court shall provide notice and copies of restraining orders issued pursuant to this section in a criminal case involving an alleged violation of section 708.2A to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications or vacations of these orders in the same manner.

Sec. 19. NEW SECTION. 915.23 EMPLOYMENT DISCRIMINATION AGAINST WITNESSES PROHIBITED.

1. An employer shall not discharge an employee from, or take or fail to take action, regarding an employee's promotion or proposed promotion, or take action to reduce an employee's wages or benefits, for actual time worked, due to the service of an employee as a witness in a criminal proceeding.

2. An employer who violates this section commits a simple misdemeanor.

3. An employee whose employer violates this section shall also be entitled to recover damages from the employer. Damages recoverable under this section include, but are not limited to, actual damages, court costs, and reasonable attorney fees.

4. The employee may also petition the court for imposition of a cease and desist order against the person's employer and for reinstatement to the person's previous position of employment.

Sec. 20. Sections 915.24 through 915.29, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Victims of Juveniles".

Sec. 21. NEW SECTION. 915.24 NOTIFICATION OF VICTIM OF JUVENILE BY JUVENILE COURT OFFICER.

1. If a complaint is filed alleging that a child has committed a delinquent act, a juvenile court officer shall notify the alleged victim, as defined in section 915.10, of the following rights:

a. To be notified of the names and addresses of the child and of the child's custodial parent or guardian.

b. To be notified of the specific charge or charges filed in a petition resulting from the complaint and regarding any dispositional orders or informal adjustments.

c. To be informed of the person's rights to restitution.

d. To be notified of the person's right to offer a written victim impact statement and to orally present the victim impact statement.

e. To be informed of the availability of assistance through the crime victim compensation program.

2. The juvenile court and the county attorney shall coordinate efforts so as to prevent duplication of notification under this section and section 915.13.

Sec. 22. NEW SECTION. 915.25 RIGHT TO REVIEW COMPLAINT AGAINST JUVENILE.

1. A complaint filed with the court or its designee pursuant to chapter 232 which alleges that a child who is at least ten years of age has committed a delinquent act, which if committed by an adult would be a public offense, is a public record and shall not be confidential under section 232.147.

2. 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. 23. NEW SECTION. 915.26 VICTIM IMPACT STATEMENT BY VICTIM OF JUVENILE.

1. If a complaint is filed under section 232.28, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court.

2. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint.

3. Unless the matter is disposed of at the preliminary inquiry conducted by the intake officer under section 232.28, the victim may also be allowed to orally present the victim impact statement.

Sec. 24. NEW SECTION. 915.27 SEXUAL ASSAULT BY JUVENILE.

A victim of a sexual assault by a juvenile adjudicated to have committed the assault is entitled to the rights listed in sections 915.40 through 915.44.

Sec. 25. NEW SECTION. 915.28 RESTITUTION FOR DELINQUENT ACTS OF JUVENILE.

1. If a judge of a juvenile court finds that a juvenile has committed a delinquent act and requires the juvenile to compensate the victim of that act for losses due to the delinquent act of the juvenile, the juvenile shall make such restitution according to a schedule established by the judge from funds earned by the juvenile pursuant to employment engaged in by the juvenile at the time of disposition.

2. If a juvenile enters into an informal adjustment agreement pursuant to section 232.29 to make such restitution, the juvenile shall make such restitution according to a schedule which shall be a part of the informal adjustment agreement.

3. The restitution shall be made under the direction of a juvenile court officer working under the direction of the juvenile court.

a. In those counties where the county maintains an office to provide juvenile victim restitution services, the juvenile court officer may use that office's services.

b. If the juvenile is not employed, the juvenile's juvenile court officer shall make a reasonable effort to find private or other public employment for the juvenile.

c. If the juvenile offender does not have employment at the time of disposition and private or other public employment is not obtained in spite of the efforts of the juvenile's juvenile court officer, the judge may direct the juvenile offender to perform work pursuant to section 232.52, subsection 2, paragraph "a", and arrange for compensation of the juvenile in the manner provided for under chapter 232A.

Sec. 26. NEW SECTION. 915.29 NOTIFICATION OF VICTIM OF JUVENILE BY DEPARTMENT OF HUMAN SERVICES.

The department of human services shall notify a registered victim regarding a juvenile adjudicated delinquent for a violent crime, committed to the custody of the department of human services, and placed at the state training school at Eldora or Toledo, of the following:

1. The date on which the juvenile is expected to be temporarily released from the custody

of the department of human services, and whether the juvenile is expected to return to the community where the registered victim resides.

2. The juvenile's escape from custody.

3. The recommendation by the department to consider the juvenile for release or placement.

4. The date on which the juvenile is expected to be released from a facility pursuant to a plan of placement.

Sec. 27. Sections 915.35 through 915.38, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Protections for Children and Other Special Victims".

Sec. 28. NEW SECTION. 915.35 CHILD VICTIM SERVICES.

1. As used in this section, "victim" means a child under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

To the greatest extent possible, a multidisciplinary team involving the county attorney, law enforcement personnel, community-based child advocacy organizations, and personnel of the department of human services shall be utilized in investigating and prosecuting cases involving a violation of chapter 709 or 726 or other crime committed upon a victim as defined in subsection 1. A multidisciplinary team may also consult with or include juvenile court officers, medical and mental health professionals, court-appointed special advocates, guardians ad litem, and members of a multidisciplinary team created by the department of human services for child abuse investigations. The department of justice may provide training and other assistance to support the activities of a multidisciplinary team referred to in this subsection.

Sec. 29. NEW SECTION. 915.36 PROTECTION OF CHILD VICTIM'S PRIVACY.

1. Prior to an arrest or the filing of an information or indictment, whichever occurs first, against a person charged with a violation of chapter 709, section 726.2, or section 728.12, committed with or on a child, as defined in section 702.5, the identity of the child or any information reasonably likely to disclose the identity of the child shall not be released to the public by any public employee except as authorized by the court of jurisdiction.

2. In order to protect the welfare of the child, the name of the child and identifying biographical information shall not appear on the information or indictment or any other public record. Instead, a nondescriptive designation shall appear on all public records. The nonpublic records containing the child's name and identifying biographical information shall be kept by the court. This subsection does not apply to the release of information to an accused or accused's counsel; however, the use or release of this information by the accused or accused's counsel for purposes other than the preparation of defense constitutes contempt.

3. A person who willfully violates this section or who willfully neglects or refuses to obey a court order made pursuant to this section commits contempt.

4. A release of information in violation of this section does not bar prosecution or provide grounds for dismissal of charges.

Sec. 30. NEW SECTION. 915.37 GUARDIAN AD LITEM FOR PROSECUTING CHILD WITNESSES.

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness's interests represented by a guardian ad litem at all stages of the proceedings aris-

ing from such violation. The guardian ad litem shall be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian ad litem. If a guardian ad litem has previously been appointed for the child in a proceeding under chapter 232 or a proceeding in which the juvenile court has waived jurisdiction under section 232.45, the court shall appoint the same guardian ad litem under this section. The guardian ad litem shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the guardian ad litem shall file reports to the court as required by the court. If a prosecuting witness is fourteen, fifteen, sixteen, or seventeen years of age, and would be entitled to the appointment of a guardian ad litem if the prosecuting witness were a child, the court may appoint a guardian ad litem if the requirements for guardians ad litem in this section are met, and the guardian ad litem agrees to participate without compensation.

References in this section to a guardian ad litem shall be interpreted to include references to a court-appointed special advocate as defined in section 232.2, subsection 9.

Sec. 31. NEW SECTION. 915.38 TELEVISED, VIDEOTAPED, AND RECORDED EVIDENCE — LIMITED COURT TESTIMONY — MINORS AND OTHERS.

1. Upon its own motion or upon motion of any party, a court may protect a minor, as defined in section 599.1, from trauma caused by testifying in the physical presence of the defendant where it would impair the minor's ability to communicate, by ordering that the testimony of the minor be taken in a room other than the courtroom and be televised by closed-circuit equipment for viewing in the courtroom. However, such an order shall be entered only upon a specific finding by the court that such measures are necessary to protect the minor from trauma. Only the judge, prosecuting attorney, defendant's attorney, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the minor may be present in the room with the minor during the minor's testimony. The judge shall inform the minor that the defendant will not be present in the room in which the minor will be testifying but that the defendant will be viewing the minor's testimony through closed-circuit television.

During the minor's testimony the defendant shall remain in the courtroom and shall be allowed to communicate with the defendant's counsel in the room where the minor is testifying by an appropriate electronic method.

In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a minor, as defined in section 599.1, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the minor is unavailable as provided in Iowa rules of evidence 804(a), order the videotaping of the minor's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 12(2)(b), and shall be admissible as evidence in the trial. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

3. The court may upon motion of a party admit into evidence the recorded statements of a child, as defined in section 702.5, describing sexual contact performed with or on the child, not otherwise admissible in evidence by statute or court rule if the court determines that the recorded statements substantially comport with the requirements for admission under Iowa rules of evidence 803(24) or 804(b)(5).

4. A court may, upon its own motion or upon the motion of a party, order the court testimony of a child to be limited in duration in accordance with the developmental maturity of the child. The court may consider or hear expert testimony in order to determine the appropriate limitation on the duration of a child's testimony. However, the court shall, upon motion, limit the duration of a child's uninterrupted testimony to one hour, at which time the court shall allow the child to rest before continuing to testify.

Sec. 32. Sections 915.40 through 915.44, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Victims of Sexual Assault".

Sec. 33. NEW SECTION. 915.40 DEFINITIONS.

As used in this subchapter, unless the context otherwise requires:

1. "AIDS" means acquired immune deficiency syndrome as defined by the centers for disease control of the United States department of health and human services.
2. "Convicted offender" means a person convicted of a sexual assault or a juvenile who has been adjudicated delinquent for an act of sexual assault.
3. "Department" means the Iowa department of public health.
4. "Division" means the crime victims assistance division of the office of the attorney general.
5. "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.
6. "HIV-related test" means a test for the antibody or antigen to HIV.
7. "Petitioner" means a person who is the victim of a sexual assault which resulted in alleged significant exposure or the parent, guardian, or custodian of a victim if the victim is a minor, for whom the county attorney files a petition with the district court to require the convicted offender to undergo an HIV-related test.
8. "Sexual assault" means sexual abuse as defined in section 709.1, or any other sexual offense by which a victim has allegedly had sufficient contact with a convicted offender to be deemed a significant exposure.
9. "Significant exposure" means contact of the victim's ruptured or broken skin or mucous membranes with the blood or bodily fluids, other than tears, saliva, or perspiration of the convicted offender. "Significant exposure" is presumed to have occurred when there is a showing that there was penetration of the convicted offender's penis into the victim's vagina or anus, contact between the mouth and genitalia, or contact between the genitalia of the offender and the genitalia or anus of the victim.
10. "Victim counselor" means a person who is engaged in a crime victim center as defined in section 915.20A, who is certified as a counselor by the crime victim center, and who has completed at least twenty hours of training provided by the Iowa coalition against sexual assault or a similar agency.

Sec. 34. NEW SECTION. 915.41 MEDICAL EXAMINATION COSTS.

The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing venereal disease shall be paid from the fund established in section 915.94.

Sec. 35. NEW SECTION. 915.42 RIGHT TO HIV-TESTING OF CONVICTED ASSAILANT.

1. Unless a petitioner chooses to be represented by private counsel, the county attorney shall represent the victim's interest in all proceedings under this subchapter.
2. If a person is convicted of sexual assault or adjudicated delinquent for an act of sexual assault, the county attorney, if requested by the petitioner, shall petition the court for an order requiring the convicted offender to submit to an HIV-related test, provided that all of the following conditions are met:
  - a. The sexual assault for which the offender was convicted or adjudicated delinquent

included sufficient contact between the victim and the convicted offender to be deemed a significant exposure pursuant to section 915.40.

b. The authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted offender to the testing.

c. Written informed consent was not provided by the convicted offender.

3. Upon receipt of the petition filed under subsection 2, the court shall:

a. Prior to the scheduling of a hearing, refer the victim for counseling by a victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, regarding the nature, reliability, and significance of the HIV-related test and of the serologic status of the convicted offender.

b. Schedule a hearing to be held as soon as is practicable.

c. Cause written notice to be served on the convicted offender who is the subject of the proceeding, in accordance with the rules of civil procedure relating to the service of original notice, or if the convicted offender is represented by legal counsel, provide written notice to the convicted offender and the convicted offender's legal counsel.

d. Provide for the appointment of legal counsel for a convicted offender if the convicted offender desires but is financially unable to employ counsel.

e. Furnish legal counsel with copies of the petition.

4. a. A hearing under this section shall be conducted in an informal manner consistent with orderly procedure and in accordance with the Iowa rules of evidence. The hearing shall be limited in scope to the review of questions of fact only as to the issue of whether the sexual assault for which the offender was convicted or adjudicated delinquent provided sufficient contact between the victim and the convicted offender to be deemed a significant exposure and to questions of law.

b. In determining whether the contact should be deemed a significant exposure, the court shall base the determination on the testimony presented during the proceedings on the sexual assault charge, the minutes of the testimony or other evidence included in the court record, or if a plea of guilty was entered, based upon the complaint or upon testimony provided during the hearing.

c. The victim may testify at the hearing but shall not be compelled to testify. The court shall not consider the refusal of a victim to testify at the hearing as material to the court's decision regarding issuance of an order requiring testing.

d. The hearing shall be in camera unless the convicted offender and the petitioner agree to a hearing in open court and the court approves. The report of the hearing proceedings shall be sealed and no report of the proceedings shall be released to the public, except with the permission of all parties and the approval of the court.

e. Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings unless waived by the parties.

5. Following the hearing, the court shall require a convicted offender to undergo an HIV-related test only if the petitioner proves all of the following by a preponderance of the evidence:

a. The sexual assault constituted a significant exposure.

b. An authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted offender.

c. Written informed consent was not provided by the convicted offender.

6. A convicted offender who is required to undergo an HIV-related test may appeal to the court for review of questions of law only, but may appeal questions of fact if the findings of fact are clearly erroneous.

Sec. 36. NEW SECTION. 915.43 TESTING, REPORTING, AND COUNSELING — PENALTIES.

1. The physician or other practitioner who orders the test of a convicted offender for HIV under this subchapter shall disclose the results of the test to the convicted offender and to the

victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, who shall disclose the results to the petitioner.

2. All testing under this chapter shall be accompanied by pretest and posttest counseling as required under section 141.22.

3. Subsequent testing arising out of the same incident of exposure shall be conducted in accordance with the procedural and confidentiality requirements of this subchapter.

4. Results of a test performed under this subchapter, except as provided in subsection 14, shall be disclosed only to the physician or other practitioner who orders the test of the convicted offender, the convicted offender, the victim, the victim counselor or person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, the physician of the victim if requested by the victim, and the parent, guardian, or custodian of the victim, if the victim is a minor. Results of a test performed under this subchapter shall not be disclosed to any other person without the written informed consent of the convicted offender. A person to whom the results of a test have been disclosed under this subchapter is subject to the confidentiality provisions of section 141.23, and shall not disclose the results to another person except as authorized by section 141.23, subsection 1.

5. If testing is ordered under this subchapter, the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole if the physician or other practitioner who ordered the initial test of the convicted offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV-related test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted offender was HIV-infected at the time the sexual assault was perpetrated. The results of the test conducted pursuant to this subsection shall be released only to the physician or other practitioner who orders the test of the convicted offender, the convicted offender, the victim counselor or person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, who shall disclose the results to the petitioner, and the physician of the victim, if requested by the victim.

6. The court shall not consider the disclosure of an alleged offender's serostatus to an alleged victim, prior to conviction, as a basis for a reduced plea or reduced sentence.

7. The fact that an HIV-related test was performed under this subchapter and the results of the test shall not be included in the convicted offender's medical or criminal record unless otherwise included in department of corrections records.

8. The fact that an HIV-related test was performed under this subchapter and the results of the test shall not be used as a basis for further prosecution of a convicted offender in relation to the incident which is the subject of the testing, to enhance punishments, or to influence sentencing.

9. If the serologic status of a convicted offender, which is conveyed to the victim, is based upon an HIV-related test other than a test which is authorized as a result of the procedures established in this subchapter, legal protections which attach to such testing shall be the same as those which attach to an initial test under this subchapter, and the rights to a prediscovery hearing and to appeal provided under section 915.42 shall apply.

10. HIV-related testing required under this subchapter shall be conducted by the state hygienic laboratory.

11. Notwithstanding the provisions of this subchapter requiring initial testing, if a petition is filed with the court under section 915.42 requesting an order for testing and the order is granted, and if a test has previously been performed on the convicted offender while under the control of the department of corrections, the test results shall be provided in lieu of the performance of an initial test of the convicted offender, in accordance with this subchapter.

12. Test results shall not be disclosed to a convicted offender who elects against disclosure.

13. In addition to the counseling received by a victim, referral to appropriate health care and support services shall be provided.

14. In addition to persons to whom disclosure of the results of a convicted offender's HIV-related test results is authorized under this subchapter, the victim may also disclose the results to the victim's spouse, persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault, or members of the victim's family within the third degree of consanguinity.

15. A person to whom disclosure of a convicted offender's HIV-related test results is authorized under this subchapter shall not disclose the results to any other person for whom disclosure is not authorized under this subchapter. A person who intentionally or recklessly makes an unauthorized disclosure in violation of this subsection is subject to a civil penalty of one thousand dollars. The attorney general or the attorney general's designee may maintain a civil action to enforce this subchapter. Proceedings maintained under this subsection shall provide for the anonymity of the test subject and all documentation shall be maintained in a confidential manner.

Sec. 37. NEW SECTION. 915.44 POLYGRAPH EXAMINATIONS OF VICTIMS OR WITNESSES — LIMITATIONS.

1. A criminal or juvenile justice agency shall not require a person claiming to be a victim of sexual assault or claiming to be a witness regarding the sexual assault of another person to submit to a polygraph or similar examination as a precondition to the agency conducting an investigation into the matter.

2. An agency wishing to perform a polygraph examination of a person claiming to be a victim or witness of sexual assault shall inform the person of the following:

a. That taking the polygraph examination is voluntary.

b. That the results of the examination are not admissible in court.

c. That the person's decision to submit or refuse a polygraph examination will not be the sole basis for a decision by the agency not to investigate the matter.

3. An agency which declines to investigate an alleged case of sexual assault following a decision by a person claiming to be a victim not to submit to a polygraph examination shall provide to that person, in writing, the reasons why the agency did not pursue the investigation at the request of the person.

Sec. 38. Section 915.50, as enacted in this Act, is enacted as a new subchapter of chapter 915 entitled "Victims of Domestic Abuse".

Sec. 39. NEW SECTION. 915.50 GENERAL RIGHTS OF DOMESTIC ABUSE VICTIMS.

In addition to other victim rights provided in this chapter, victims of domestic abuse shall have the following rights:

1. The right to file a pro se petition for relief from domestic abuse in the district court, pursuant to sections 236.3 through 236.10.

2. The right, pursuant to section 236.12, for law enforcement to remain on the scene, to assist the victim in leaving the scene, to transport the victim to medical care, and to provide the person with a written statement of victim rights and information about domestic abuse shelters, support services, and crisis lines.

3. The right to receive a criminal no-contact order upon a finding of probable cause, pursuant to section 236.14.

Sec. 40. Sections 915.80 through 915.94, as enacted in this Act, are enacted as a new subchapter of chapter 915, entitled "Victim Compensation".

Sec. 41. NEW SECTION. 915.80 DEFINITIONS.

As used in this subchapter, unless the context otherwise requires:

1. "Compensation" means moneys awarded by the department as authorized in this subchapter.

2. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony or misdemeanor, or would

be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 321.261, 321.277, 321J.2, 462A.14, or 707.6A, or when the intention is to cause personal injury or death. A license revocation under section 321J.9 or 321J.12 shall be considered by the department as evidence of a violation of section 321J.2 for the purposes of this subchapter.

3. "Department" means the department of justice.

4. "Dependent" means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.

5. "Secondary victim" means the victim's spouse, children, parents, and siblings, and any person who resides in the victim's household at the time of the crime or at the time of the discovery of the crime. Secondary victim does not include persons who are the survivors of a victim who dies as a result of a crime.

6. "Victim" means a person who suffers personal injury or death as a result of any of the following:

a. A crime.

b. The good faith effort of a person attempting to prevent a crime.

c. The good faith effort of a person to apprehend a person suspected of committing a crime.

Sec. 42. NEW SECTION. 915.81 AWARD OF COMPENSATION.

The department shall award compensation authorized by this subchapter if the department is satisfied that the requirements for compensation have been met.

Sec. 43. NEW SECTION. 915.82 CRIME VICTIM ASSISTANCE BOARD.

1. A crime victim assistance board is established, and shall consist of the following members to be appointed pursuant to rules adopted by the department:

a. A county attorney or assistant county attorney.

b. Two persons engaged full-time in law enforcement.

c. A public defender or an attorney practicing primarily in criminal defense.

d. A hospital medical staff person involved with emergency services.

e. Two public members who have received victim services.

f. A victim service provider.

g. A person licensed pursuant to chapter 154B or 154C.

h. A person representing the elderly.

Board members shall be reimbursed for expenses actually and necessarily incurred in the discharge of their duties.

2. The board shall adopt rules pursuant to chapter 17A relating to program policies and procedures.

3. A victim aggrieved by the denial or disposition of the victim's claim may appeal to the district court within thirty days of receipt of the board's decision.

Sec. 44. NEW SECTION. 915.83 DUTIES OF DEPARTMENT.

The department shall:

1. Adopt rules pursuant to chapter 17A relating to the administration of the crime victim compensation program, including the filing of claims pursuant to the program, and the hearing and disposition of the claims.

2. Hear claims, determine the results relating to claims, and reinvestigate and reopen cases as necessary.

3. Publicize through the department, county sheriff departments, municipal police departments, county attorney offices, and other public or private agencies, the existence of the crime victim compensation program, including the procedures for obtaining compensation under the program.

4. Request from the department of human services, the department of workforce development and its division of industrial services, the department of public safety, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim compensation program.

5. Require medical examinations of victims as needed. The victim shall be responsible for the cost of the medical examination if compensation is made. The department shall be responsible for the cost of the medical examination from funds appropriated to the department for the crime victim compensation program if compensation is not made to the victim unless the cost of the examination is payable as a benefit under an insurance policy or subscriber contract covering the victim or the cost is payable by a health maintenance organization.

6. Receive moneys collected pursuant to section 904.702 for the purpose of compliance with Pub. L. No. 98-473.

Sec. 45. NEW SECTION. 915.84 APPLICATION FOR COMPENSATION.

1. To claim compensation under the crime victim compensation program, a person shall apply in writing on a form prescribed by the department and file the application with the department within two years after the date of the crime, the discovery of the crime, or the date of death of the victim.

2. A person is not eligible for compensation unless the crime was reported to the local police department or county sheriff department within seventy-two hours of its occurrence. If the crime cannot reasonably be reported within that time period, the crime shall have been reported within seventy-two hours of the time a report can reasonably be made. The department may waive this requirement if good cause is shown.

3. Notwithstanding subsection 2, a victim under the age of eighteen or dependent adult as defined in section 235B.1\* who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for compensation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 7, or upon a dependent adult by a caretaker as defined in section 235B.1,\* and was reported to an employee of the department of human services and the employee verifies the report to the department.

4. When immediate or short-term medical services or mental health services are provided to a victim under section 915.35, the department of human services shall file the claim for compensation as provided in subsection 3 for the victim.

5. When immediate or short-term medical services to a victim are provided pursuant to section 915.35 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for compensation, unless the department of human services is required to file the claim under this section. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

6. The victim shall cooperate with reasonable requests by the appropriate law enforcement agencies in the investigation or prosecution of the crime.

Sec. 46. NEW SECTION. 915.85 COMPENSATION PAYABLE.

The department may order the payment of compensation:

1. To or for the benefit of the person filing the claim.

2. To a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of personal injury to the victim.

3. To or for the benefit of one or more dependents of the victim, in the case of death of the victim. If two or more dependents are entitled to compensation, the compensation may be apportioned by the department as the department determines to be fair and equitable among the dependents.

\* Section 235B.2 probably intended

4. To a victim of an act committed outside this state who is a resident of this state, if the act would be compensable had it occurred within this state and the act occurred in a state that does not have an eligible crime victim compensation program, as defined in the federal Victims of Crime Act of 1984, Pub. L. 98-473, section 1403(b), as amended and codified in 42 U.S.C. § 10602(b).

5. To or for the benefit of a resident of this state who is a victim of an act of terrorism as defined in 18 U.S.C. § 2331, which occurred outside of the United States.

Sec. 47. NEW SECTION. 915.86 COMPUTATION OF COMPENSATION.

The department shall award compensation, as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim:

1. Reasonable charges incurred for medical care not to exceed ten thousand five hundred dollars. Reasonable charges incurred for mental health care not to exceed three thousand dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 915.20A.

2. Loss of income from work the victim would have performed and for which the victim would have received remuneration if the victim had not been injured, not to exceed six thousand dollars.

3. Reasonable replacement value of clothing that is held for evidentiary purposes not to exceed one hundred dollars.

4. Reasonable funeral and burial expenses not to exceed five thousand dollars.

5. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed two thousand dollars per dependent or a total of six thousand dollars.

6. In the event of a victim's death, reasonable charges incurred for counseling the victim's spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 915.20A, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under chapter 147 or 150A. The allowable charges under this subsection shall not exceed three thousand dollars per person or a total of six thousand dollars per victim death.

7. In the event of a victim's death, reasonable charges incurred for health care for the victim's spouse, children, parents, siblings, or persons related by blood or affinity to the victim not to exceed three thousand dollars per survivor.

8. Reasonable expenses incurred for cleaning the scene of a homicide, if the scene is a residence, not to exceed one thousand dollars.

9. Reasonable charges incurred for mental health care for secondary victims which include the services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work, counseling, or a related field, a victim counselor as defined in section 915.20A, or a psychiatrist licensed under chapter 147, 148, or 150A. The allowable charges under this subsection shall not exceed one thousand dollars per secondary victim or a total of six thousand dollars.

Sec. 48. NEW SECTION. 915.87 REDUCTIONS AND DISQUALIFICATIONS.

Compensation is subject to reduction and disqualification as follows:

1. Compensation shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:

a. From or on behalf of, a person who committed the crime or who is otherwise responsible for damages resulting from the crime.

b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.

c. From public funds.

- d. As an emergency award under section 915.91.
2. Compensation shall not be made when the bodily injury or death for which a benefit is sought was caused by any of the following:
  - a. Consent, provocation, or incitement by the victim.
  - b. The victim assisting, attempting, or committing a criminal act.

Sec. 49. NEW SECTION. 915.88 COMPENSATION WHEN MONEY INSUFFICIENT.

Notwithstanding this subchapter, a victim otherwise qualified for compensation under the crime victim compensation program is not entitled to the compensation when there is insufficient money from the appropriation for the program to pay the compensation.

Sec. 50. NEW SECTION. 915.89 ERRONEOUS OR FRAUDULENT PAYMENT — PENALTY.

1. If a payment or overpayment of compensation is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient, or other circumstances of a similar nature, not induced by fraud by or on behalf of the recipient, the recipient is liable for repayment of the compensation. The department may waive, decrease, or adjust the amount of the repayment of the compensation. However, if the department does not notify the recipient of the erroneous payment or overpayment within one year of the date the compensation was made, the recipient is not liable for the repayment of the compensation.

2. If a payment or overpayment has been induced by fraud by or on behalf of a recipient, the recipient is liable for repayment of the compensation.

Sec. 51. NEW SECTION. 915.90 RELEASE OF INFORMATION.

A person in possession or control of investigative or other information pertaining to an alleged crime or a victim filing for compensation shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and enforcement of the crime victim compensation program. Information and records which are confidential under section 22.7 and information or records received from the confidential information or records remain confidential under this section.

A person does not incur legal liability by reason of releasing information to the department as required under this section.

Sec. 52. NEW SECTION. 915.91 EMERGENCY PAYMENT COMPENSATION.

If the department determines that compensation may be made and that undue hardship may result to the person if partial immediate payment is not made, the department may order emergency compensation to be paid to the person, not to exceed five hundred dollars.

Sec. 53. NEW SECTION. 915.92 RIGHT OF ACTION AGAINST PERPETRATOR — SUBROGATION.

A right of legal action by the victim against a person who has committed a crime is not lost as a consequence of a person receiving compensation under the crime victim compensation program. If a person receiving compensation under the program seeks indemnification which would reduce the compensation under section 915.87, subsection 1, the department is subrogated to the recovery to the extent of payments by the department to or on behalf of the person. The department has a right of legal action against a person who has committed a crime resulting in payment of compensation by the department to the extent of the compensation payment. However, legal action by the department does not affect the right of a person to seek further relief in other legal actions.

Sec. 54. NEW SECTION. 915.93 RULEMAKING.

The department shall adopt rules pursuant to chapter 17A to implement the procedures for reparation payments with respect to section 915.35 and section 915.84, subsections 3, 4, and 5.

Sec. 55. NEW SECTION. 915.94 VICTIM COMPENSATION FUND.

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 915.41 and this subchapter. In addition, the department may use moneys from the fund for the purposes of section 236.15 and for the award of funds to programs that provide services and support to victims of domestic abuse or sexual assault as provided in chapter 236. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 56. Section 915.100, as enacted in this Act, is enacted as a new subchapter of chapter 915, entitled "Victim Restitution".

Sec. 57. NEW SECTION. 915.100 VICTIM RESTITUTION RIGHTS.

1. Victims, as defined in section 910.1, have the right to recover pecuniary damages, as defined in section 910.1.

2. The right to restitution includes the following:

a. In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgement of conviction is rendered, the sentencing court shall order that restitution be made by each offender to victims of the offender's criminal activities.

b. A judge may require a juvenile who has been found to have committed a delinquent act to compensate the victim of that act for losses due to the act.

c. In cases where the act committed by an offender causes the death of another person, in addition to the amount ordered for payment of the victim's pecuniary damages, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate.

d. The clerk of court shall forward a copy of the plan of payment or the modified plan of payment to the victim or victims.

e. Victims shall be paid in full pursuant to an order of restitution, before fines, penalties, surcharges, crime victim compensation program reimbursement, public agency reimbursement, court costs, correctional fees, court-appointed attorney fees, expenses of a public defender, or contributions to local anticrime organizations are paid.

f. A judgment of restitution may be enforced by a victim entitled under the order to receive restitution, or by a deceased victim's estate, in the same manner as a civil judgment.

g. A victim in a criminal proceeding who is entitled to restitution under a court order may file a restitution lien.

h. If a convicted felon attempts to profit from the commission of the crime, and the attorney general brings an action to recover such profits, the victim may be entitled to funds held in escrow, pursuant to the provisions of section 910.15.

i. The right to victim restitution for the pecuniary damages incurred by a victim as the result of a crime does not limit or impair the right of the victim to sue and recover damages from the offender in a civil action.

Sec. 58. Section 13.31, subsections 2 and 5, Code 1997, are amended to read as follows:

2. Administer the state crime victim compensation program as provided in chapter ~~912~~ 915.

5. Administer payment for sexual abuse medical examinations pursuant to section ~~709.10~~ 915.41.

Sec. 59. Section 22.7, subsection 2, Code Supplement 1997, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a crime victim and the victim's counselor are not subject to disclosure except as provided in section ~~236A.1~~ 915.20A. However, the Iowa department of public health shall adopt rules which provide for

the sharing of information among agencies and providers concerning the maternal and child health program including but not limited to the statewide child immunization information system, while maintaining an individual's confidentiality.

Sec. 60. Section 135.11, subsection 24, Code Supplement 1997, is amended to read as follows:

24. Adopt rules which provide for the testing of a convicted offender for the human immunodeficiency virus pursuant to ~~chapter 709B~~ sections 915.40 through 915.43. The rules shall provide for the provision of counseling, health care, and support services to the victim.

Sec. 61. Section 232.28, subsections 10 and 11, Code Supplement 1997, are amended by striking the subsections.

Sec. 62. Section 232.28A, subsection 1, paragraph d, Code Supplement 1997, is amended to read as follows:

d. To be notified of the person's right to offer a written victim impact statement and to orally present the victim impact statement under sections ~~232.28 and 910A.5~~ 915.26.

Sec. 63. Section 232.147, subsections 2 and 9, Code Supplement 1997, are 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~~ 915.25. Other official juvenile court records may be released under this section by a juvenile court officer.

9. Release of official juvenile court records to a victim of a delinquent act is subject to the provisions of section ~~232.28A~~ 915.25, notwithstanding contrary provisions of this chapter.

Sec. 64. Section 235A.15, subsection 2, paragraph e, subparagraph (3), Code Supplement 1997, is amended to read as follows:

(3) To the department of justice for the sole purpose of the filing of a claim for restitution or compensation pursuant to ~~section 910A.5~~ sections 915.21 and section 912.4, subsections 3 through 5 915.84. Data provided pursuant to this subparagraph is subject to the provisions of section ~~912.10~~ 915.90.

Sec. 65. Section 235B.6, subsection 2, paragraph e, subparagraph (3), Code Supplement 1997, is amended to read as follows:

(3) The department of justice for the sole purpose of the filing of a claim for reparation pursuant to ~~section 910A.5~~ sections 915.21 and section 912.4, subsections 3 through 5 915.84.

Sec. 66. Section 236.14, subsection 2, unnumbered paragraph 3, Code 1997, is amended to read as follows:

The clerk of the court or other person designated by the court shall provide a copy of this order to the victim pursuant to ~~chapter 910A~~ 915. The order has force and effect until it is modified or terminated by subsequent court action in the contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of section 708.2A, the court shall modify the no-contact order issued by the magistrate to provide that the no-contact order shall continue in effect for a period of one year from the date that the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation. Upon an application by the state which is filed within ninety days prior to the expiration of the modified no-contact order, the court shall modify and extend the no-contact order for an additional period of one year, if the court finds that

the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family. The number of modifications extending the no-contact order permitted by this subsection is not limited.

Sec. 67. Section 321J.17, subsection 1, Code Supplement 1997, is amended to read as follows:

1. If the department revokes a person's motor vehicle license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit one-half of the money in the separate fund established in section ~~912.14~~ 915.94 and one-half of the money shall be deposited in the general fund of the state. A motor vehicle license or nonresident operating privilege shall not be reinstated until the civil penalty has been paid.

Sec. 68. Section 331.653, subsection 65A, Code Supplement 1997, is amended to read as follows:

65A. Carry out the duties imposed under ~~section 910A.8~~ sections 915.11 and 915.16.

Sec. 69. Section 331.756, subsection 83A, Code Supplement 1997, is amended to read as follows:

83A. Carry out the duties imposed under sections ~~910A.2, 910A.5, and 910A.6~~ 915.12 and 915.13.

Sec. 70. Section 331.909, subsection 2, Code 1997, is amended to read as follows:

2. The activities of a multidisciplinary community services team shall not duplicate the activities of a multidisciplinary team for child abuse under section 235A.13, dependent adult abuse activities under section 235B.6, area education agency activities under section 294A.14, or child victim services provided under section ~~910A.16~~ 915.35.

Sec. 71. Section 562A.27A, subsection 3, paragraph a, Code 1997, is amended to read as follows:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, or ~~910A~~ 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

Sec. 72. Section 562B.25A, subsection 3, paragraph a, Code 1997, is amended to read as follows:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, or ~~910A~~ 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

Sec. 73. Section 602.8108, subsection 3, paragraph b, Code 1997, is amended to read as follows:

b. Of the amount received from the clerk, the state court administrator shall allocate eighteen percent to be deposited in the fund established in section ~~912.14~~ 915.94 and eighty-two percent to be deposited in the general fund.

Sec. 74. Section 622.69, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Witness fees to be received by an inmate, while in the custody of the department of corrections, shall be applied either toward payment of any restitution owed by the inmate or to the crime victim compensation program established in ~~chapter 912~~ sections 915.80 through 915.94.

Sec. 75. Section 809.17, Code 1997, is amended to read as follows:

**809.17 PROCEEDS APPLIED TO VARIOUS PROGRAMS.**

Except as provided in section 809.21, proceeds from the disposal of seized property pursuant to this chapter may be transferred in whole or in part to the victim compensation fund created in section ~~912.14~~ 915.94 at the discretion of the recipient agency, political subdivision, or department.

Sec. 76. Section 904.108, subsection 6, Code Supplement 1997, is amended by striking the subsection.

Sec. 77. Section 904.602, subsection 3, Code 1997, is amended to read as follows:

3. Information identified in subsection 2 shall not be disclosed or used by any person or agency except for purposes of the administration of the department's programs of services or assistance and shall not, except as otherwise provided in ~~subsection 4~~ this section, be disclosed by the department or be used by persons or agencies outside the department unless they are subject to, or agree to, comply with standards of confidentiality comparable to those imposed on the department by this section.

Sec. 78. Section 904.602, Code 1997, is amended by adding the following new subsection:

**NEW SUBSECTION.** 6A. Information described in subsection 2 which pertains to the name and address of the employer of an individual who is receiving or has received services shall be released upon request to an individual for the purpose of executing a judgment resulting from the individual's current or past criminal activity.

Sec. 79. Section 904.809, subsection 5, paragraph a, subparagraph (3), Code Supplement 1997, is amended to read as follows:

(3) Five percent of the balance to the victim compensation fund created in section ~~912.14~~ 915.94.

Sec. 80. Section 232A.4, 709.10, and 709.17, Code 1997, are repealed.

Sec. 81. Section 232.28A, Code Supplement 1997, is repealed.

Sec. 82. Chapters 709B, 910A, and 912, Code and Code Supplement 1997, are repealed.

Sec. 83. The Code editor is directed to correct internal references throughout the Code as necessary in conjunction with the transfer of Code sections to and reenactment of Code sections in Code chapter 915.

Sec. 84. **EFFECTIVE DATE.** This Act takes effect January 1, 1999.

Approved April 13, 1998