

3. An order approved by the court for suspension of an accruing support obligation is effective upon the date of filing of the suspension order. The satisfaction of an obligation of support due the obligee shall be final upon the filing of the suspension order. A support obligation which is satisfied is not subject to the reinstatement provisions of this section.

10. This section does not provide for the suspension, ~~waiver, satisfaction,~~ or retroactive modification of support obligations which accrued prior to the entry of an order suspending enforcement and collection of support pursuant to this section. However, if in the application for suspension, an obligee elects to satisfy an obligation of accrued support due the obligee, the suspension order may satisfy the obligation of accrued support due the obligee.

11. Nothing in this section shall prohibit or limit the unit or a party entitled to receive support from enforcing and collecting any unpaid or unsatisfied support that accrued prior to the suspension of the accruing obligation.

#### DIVISION XV PASS THROUGH OF CHILD SUPPORT

##### Sec. 48. FEDERAL PERMISSION — PASS THROUGH OF CHILD SUPPORT.

1. The department of human services shall seek permission from the United States department of health and human services for a statewide initiative to pass the full amount of child support collected, on behalf of family investment program participants, through to those families without being required to reimburse the federal government for the federal share of the child support collected. If the department of human services receives unconditional approval from the United States department of health and human services, the department shall submit an implementation proposal to the general assembly that provides for a net offset in family investment program benefits which is equivalent to the amount of child support passed through to the family.

2. The goals of the initiative shall include all of the following:

a. Encouraging payment of child support by providing a direct connection between the act of paying child support and the receipt of child support by the child.

b. Reinforcing the value of employment for family investment program participants by more clearly identifying the actual level of income necessary to become independent from the receipt of benefits under the family investment program when child support is also being received.

Approved May 6, 1998

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## CHAPTER 1171

### CONFINEMENT AND TREATMENT OF SEX OFFENDERS

S.F. 2398

**AN ACT** relating to the confinement and treatment of sex offenders.

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

#### Section 1. NEW SECTION. 229A.1 LEGISLATIVE FINDINGS.

The general assembly finds that a small but extremely dangerous group of sexually violent predators exists which is made up of persons who do not have a mental disease or defect that renders them appropriate for involuntary treatment pursuant to the treatment provisions for mentally ill persons under chapter 229, since that chapter is intended to provide

short-term treatment to persons with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment under chapter 229, sexually violent predators generally have antisocial personality features that are unamenable to existing mental illness treatment modalities and that render them likely to engage in sexually violent behavior. The general assembly finds that sexually violent predators' likelihood of engaging in repeat acts of predatory sexual violence is high and that the existing involuntary commitment procedure under chapter 229 is inadequate to address the risk these sexually violent predators pose to society.

The general assembly further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, because the treatment needs of this population are very long-term, and the treatment modalities for this population are very different from the traditional treatment modalities available in a prison setting or for persons appropriate for commitment under chapter 229. Therefore, the general assembly finds that a civil commitment procedure for the long-term care and treatment of the sexually violent predator is necessary.

Sec. 2. NEW SECTION. 229A.2 DEFINITIONS.

As used in this chapter:

1. "Agency with jurisdiction" means an agency which has custody of or releases a person serving a sentence or term of confinement or is otherwise in confinement based upon a lawful order or authority, and includes but is not limited to the department of corrections, the department of human services, a judicial district department of correctional services, and the Iowa board of parole.

2. "Likely to engage in predatory acts of sexual violence" means that the person more likely than not will engage in acts of a sexually violent nature. If a person is not confined at the time that a petition is filed, a person is "likely to engage in predatory acts of sexual violence" only if the person commits a recent overt act.

3. "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity of a person and predisposing that person to commit sexually violent offenses to a degree which would constitute a menace to the health and safety of others.

4. "Predatory" means acts directed toward a person with whom a relationship has been established or promoted for the primary purpose of victimization.

5. "Recent overt act" means any act that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm.

6. "Sexually motivated" means that one of the purposes for commission of a crime is the purpose of sexual gratification of the perpetrator of the crime.

7. "Sexually violent offense" means:

a. A violation of any provision of chapter 709.

b. A violation of any of the following if the offense involves sexual abuse, attempted sexual abuse, or intent to commit sexual abuse:

(1) Murder as defined in section 707.1.

(2) Kidnapping as defined in section 710.1.

(3) Burglary as defined in section 713.1.

(4) Child endangerment under section 726.6, subsection 1, paragraph "e".

c. Sexual exploitation of a minor in violation of section 728.12, subsection 1.

d. Pandering involving a minor in violation of section 725.3, subsection 2.

e. An offense involving an attempt or conspiracy to commit any offense referred to in this subsection.

f. An offense under prior law of this state or an offense committed in another jurisdiction which would constitute an equivalent offense under paragraphs "a" through "e".

g. Any act which, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated.

8. "Sexually violent predator" means a person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality which makes the person likely to engage in predatory acts constituting sexually violent offenses, if not confined in a secure facility.

Sec. 3. NEW SECTION. 229A.3 NOTICE OF DISCHARGE OF SEXUALLY VIOLENT PREDATOR — IMMUNITY FROM LIABILITY — MULTIDISCIPLINARY TEAM — PROSECUTOR'S REVIEW COMMITTEE — ASSESSMENT OF PERSON.

1. When it appears that a person who is confined may meet the definition of a sexually violent predator, the agency with jurisdiction shall give written notice to the attorney general and the multidisciplinary team established in subsection 4, no later than ninety days prior to any of the following events:

a. The anticipated discharge of a person who has been convicted of a sexually violent offense from total confinement, except that in the case of a person who is returned to prison for no more than ninety days as a result of revocation of parole, written notice shall be given as soon as practicable following the person's readmission to prison.

b. The discharge of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to chapter 812.

c. The discharge of a person who has been found not guilty by reason of insanity of a sexually violent offense.

2. If notice is given under subsection 1, the agency with jurisdiction shall inform the attorney general and the multidisciplinary team established in subsection 4, of both of the following:

a. The person's name, identifying factors, anticipated future residence, and offense history.

b. Documentation of any institutional evaluation and any treatment received.

3. The agency with jurisdiction, its employees, officials, members of the multidisciplinary team established in subsection 4, members of the prosecutor's review committee appointed as provided in subsection 5, and individuals contracting, appointed, or volunteering to perform services under this section shall be immune from liability for any good-faith conduct under this section.

4. The director of the department of corrections shall establish a multidisciplinary team which may include individuals from other state agencies to review available records of each person referred to such team pursuant to subsection 1. The team, within thirty days of receiving notice, shall assess whether or not the person meets the definition of a sexually violent predator. The team shall notify the attorney general of its assessment.

5. The attorney general shall appoint a prosecutor's review committee to review the records of each person referred to the attorney general pursuant to subsection 1. The prosecutor's review committee shall assist the attorney general in the determination of whether or not the person meets the definition of a sexually violent predator. The assessment of the multidisciplinary team shall be made available to the attorney general and the prosecutor's review committee.

Sec. 4. NEW SECTION. 229A.4 PETITION, TIME, CONTENTS.

1. If it appears that a person presently confined may be a sexually violent predator and the prosecutor's review committee has determined that the person meets the definition of a sexually violent predator, the attorney general may file a petition, within seventy-five days of the date the attorney general received the written notice by the agency of jurisdiction pursuant to section 229A.3, alleging that the person is a sexually violent predator and stating sufficient facts to support such an allegation.

2. A prosecuting attorney of the county in which the person was convicted or charged, or the attorney general if requested by the prosecuting attorney, may file a petition alleging that a person is a sexually violent predator and stating sufficient facts to support such an allegation, if it appears that a person who has committed a recent overt act meets any of the following criteria:

- a. The person was convicted of a sexually violent offense and has been discharged after the completion of the sentence imposed for the offense.
- b. The person was charged with, but was acquitted of, a sexually violent offense by reason of insanity and has been released from confinement or any supervision.
- c. The person was charged with, but was found to be incompetent to stand trial for, a sexually violent offense and has been released from confinement or any supervision.

Sec. 5. NEW SECTION. 229A.5 PERSON TAKEN INTO CUSTODY, DETERMINATION OF PROBABLE CAUSE, HEARING, EVALUATION.

1. Upon filing of a petition under section 229A.4, the court shall make a preliminary determination as to whether probable cause exists to believe that the person named in the petition is a sexually violent predator. Upon a preliminary finding of probable cause, the court shall direct that the person named in the petition be taken into custody and that the person be served with a copy of the petition and any supporting documentation and notice of the procedures required by this chapter. If the person is in custody at the time of the filing of the petition, the court shall determine whether a transfer of the person to an appropriate secure facility is appropriate pending the outcome of the proceedings or whether the custody order should be delayed until the date of release of the person.

2. Within seventy-two hours after being taken into custody or being transferred to an appropriate secure facility, a hearing shall be held to determine whether probable cause exists to believe the detained person is a sexually violent predator. At the probable cause hearing, the detained person shall have the following rights:

- a. To be provided with prior notice of date, time, and location of the probable cause hearing.
- b. To respond to the preliminary finding of probable cause.
- c. To appear in person at the hearing.
- d. To be represented by counsel.
- e. To present evidence on the respondent's own behalf.
- f. To cross-examine witnesses who testify against the respondent.
- g. To view and copy all petitions and reports in the possession of the court.

3. At the hearing, the state may rely upon the petition filed under subsection 1 but may also supplement the petition with additional documentary evidence or live testimony.

4. At the conclusion of the hearing, the court shall enter an order which does both of the following:

- a. Verifies the respondent's identity.
- b. Determines whether probable cause exists to believe that the respondent is a sexually violent predator.

5. If the court determines that probable cause does exist, the court shall direct that the respondent be transferred to an appropriate secure facility, including, but not limited to, a county jail, for an evaluation as to whether the respondent is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct such an examination.

Sec. 6. NEW SECTION. 229A.6 COUNSEL AND EXPERTS, INDIGENT PERSONS.

1. A respondent to a petition alleging the person to be a sexually violent predator shall be entitled to the assistance of counsel upon the filing of the petition under section 229A.4\* and, if the respondent is indigent, the court shall appoint counsel to assist the respondent at state expense.

2. If a respondent is subjected to an examination under this chapter, the respondent may retain experts or professional persons to perform an independent examination on the respondent's behalf. If the respondent wishes to be examined by a qualified expert or professional person of the respondent's own choice, the examiner of the respondent's choice shall be given reasonable access to the respondent for the purpose of the examination, as well as access to all relevant medical and psychological records and reports. If the respondent is

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\* Section 229A.4 probably intended

indigent, the court, upon the respondent's request, shall determine whether the services are necessary and the reasonable compensation for the services. If the court determines that the services are necessary and the requested compensation for the services is reasonable, the court shall assist the respondent in obtaining an expert or professional person to perform an examination or participate in the trial on the respondent's behalf. The court shall approve payment for such services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the respondent, and compensation received in the same case or for the same services from any other source.

Sec. 7. NEW SECTION. 229A.7 TRIAL, DETERMINATION, COMMITMENT PROCEDURE, CHAPTER 28E AGREEMENTS, MISTRIALS.

1. If the person charged with a sexually violent offense has been found incompetent to stand trial and the person is about to be released pursuant to section 812.5, or the person has been found not guilty of a sexually violent offense by reason of insanity, if a petition has been filed seeking the person's commitment under this chapter, the court shall first hear evidence and determine whether the person did commit the act or acts charged. At the hearing on this issue, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or insanity affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this chapter.

2. Within sixty days after the completion of the probable cause hearing held pursuant to section 229A.5, the court shall conduct a trial to determine whether the respondent is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. The respondent, the attorney general, or the judge shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least four days prior to trial. The number and selection of jurors shall be determined as provided in chapter 607A. If no demand is made, the trial shall be before the court.

3. At trial, the court or jury shall determine whether, beyond a reasonable doubt, the respondent is a sexually violent predator. If the determination that the respondent is a sexually violent predator is made by a jury, the determination shall be by unanimous verdict of such jury.

If the court or jury determines that the respondent is a sexually violent predator, the respondent shall be committed to the custody of the director of the department of human services for control, care, and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large. The determination may be appealed.

4. The control, care, and treatment of a person determined to be a sexually violent predator shall be provided at a facility operated by the department of human services. At all times, persons committed for control, care, and treatment by the department of human services pursuant to this chapter shall be kept in a secure facility and those patients shall be segregated at all times from any other patient under the supervision of the department of human services. A person committed pursuant to this chapter to the custody of the department of human services may be kept in a facility or building separate from any other patient under the supervision of the department of human services. The department of human services

may enter into a chapter 28E agreement with the department of corrections or other appropriate agency in this state or another state for the confinement of patients who have been determined to be sexually violent predators. Patients who are in the confinement of the director of the department of corrections pursuant to a chapter 28E agreement shall be housed and managed separately from criminal offenders in the custody of the director of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from those offenders.

5. If the court or jury is not satisfied beyond a reasonable doubt that the respondent is a sexually violent predator, the court shall direct the respondent's release. Upon a mistrial, the court shall direct that the respondent be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in subsection 1.

Sec. 8. NEW SECTION. 229A.8 ANNUAL EXAMINATIONS, DISCHARGE PETITIONS BY PERSONS COMMITTED.

1. Each person committed under this chapter shall have a current examination of the person's mental abnormality made once every year. The person may retain, or if the person is indigent and so requests, the court may appoint a qualified expert or professional person to examine such person, and such expert or professional person shall be given access to all records concerning the person.

2. The annual report shall be provided to the court that committed the person under this chapter. The court shall conduct an annual review and probable cause hearing on the status of the committed person.

3. Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge at the probable cause hearing. The director of human services shall provide the committed person with an annual written notice of the person's right to petition the court for discharge over the director's objection. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report.

4. The committed person shall have a right to have an attorney represent the person at the probable cause hearing but the person is not entitled to be present at the hearing. If the court at the hearing determines that probable cause exists to believe that the person's mental abnormality has so changed that the person is safe to be at large and will not engage in predatory acts or sexually violent offenses if discharged, then the court shall set a final hearing on the issue.

5. At the final hearing, the committed person shall be entitled to be present and is entitled to the benefit of all constitutional protections that were afforded the person at the original commitment proceeding. The attorney general shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate the person on the person's behalf. The court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if discharged is likely to engage in acts of sexual violence.

Sec. 9. NEW SECTION. 229A.9 DETENTION AND COMMITMENT TO CONFORM TO CONSTITUTIONAL REQUIREMENTS.

The involuntary detention or commitment of persons under this chapter shall conform to constitutional requirements for care and treatment.

Sec. 10. NEW SECTION. 229A.10 PETITION FOR DISCHARGE — PROCEDURE.

If the director of human services determines that the person's mental abnormality has so changed that the person is not likely to commit predatory acts or sexually violent offenses if

discharged, the director shall authorize the person to petition the court for discharge. The petition shall be served upon the court and the attorney general. The court, upon receipt of the petition for discharge, shall order a hearing within thirty days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the attorney general. The burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if discharged is likely to commit predatory acts or sexually violent offenses.

Sec. 11. NEW SECTION. 229A.11 SUBSEQUENT DISCHARGE PETITIONS, LIMITATIONS.

Nothing in this chapter shall prohibit a person from filing a petition for discharge pursuant to this chapter. However, if a person has previously filed a petition for discharge without the authorization of the director of human services, and the court determines either upon review of the petition or following a hearing that the petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, then the court shall summarily deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the director's authorization, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds. If the court determines that a petition is frivolous, the court shall deny the petition without a hearing.

Sec. 12. NEW SECTION. 229A.12 DIRECTOR OF HUMAN SERVICES — RESPONSIBILITY FOR COSTS — DUTIES — REIMBURSEMENT.

The director of human services shall be responsible for all costs relating to the evaluation and treatment of persons committed to the director's custody under any provision of this chapter. Reimbursement may be obtained by the director from the patient and any person legally liable or bound by contract for the support of the patient for the cost of care and treatment provided.

Sec. 13. NEW SECTION. 229A.13 NOTICE TO VICTIMS OF DISCHARGE OF PERSONS COMMITTED.

In addition to any other information required to be released under this chapter, prior to the discharge of a person committed under this chapter, the director of human services shall give written notice of the person's discharge to any living victim of the person's activities or crime whose address is known to the director or, if the victim is deceased, to the victim's family, if the family's address is known. Failure to notify shall not be a reason for postponement of discharge. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this action.

Sec. 14. NEW SECTION. 229A.15 SEVERABILITY.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application and, to this end, the provisions of this chapter are severable.

Sec. 15. NEW SECTION. 229A.16 RELEASE OF CONFIDENTIAL OR PRIVILEGED INFORMATION AND RECORDS.

Notwithstanding anything in chapter 22 to the contrary, relevant information and records which would otherwise be confidential or privileged shall be released to the agency with jurisdiction or the attorney general for the purpose of meeting the notice requirement provided in section 229A.3 and determining whether a person is or continues to be a sexually violent predator.

Sec. 16. NEW SECTION. 229A.17 COURT RECORDS — SEALED AND OPENED BY COURT ORDER.

Any psychological reports, drug and alcohol reports, treatment records, reports of any diagnostic center, medical records, or victim impact statements which have been submitted to the court or admitted into evidence under this chapter shall be part of the record but shall be sealed and opened only on order of the court.

Sec. 17. NEW SECTION. 229A.18 SHORT TITLE.

This chapter shall be known and may be cited as the "Sexually Violent Predator Act".

Sec. 18. Section 815.11, Code 1997, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, section 232.141, subsection 3, paragraph "c", sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the department of inspections and appeals for those purposes.

Sec. 19. Section 901A.2, subsections 3 and 4, Code 1997, are amended to read as follows:

3. A Except as otherwise provided in subsection 4A, a person convicted of a sexually predatory offense which is a felony, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, or twenty-five years, whichever is greater, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

4. A Except as otherwise provided in subsection 4A, a person convicted of a sexually predatory offense which is a felony who has previously been sentenced under subsection 3 shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. In order for a person to be sentenced under this subsection, the prosecuting attorney shall allege and prove that this section is applicable to the person.

Sec. 20. Section 901A.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. A person who has been convicted of a violation of section 709.3, subsection 2, shall, upon a second conviction for a violation of section 709.3, subsection 2, be committed to the custody of the director of the Iowa department of corrections for the rest of the person's life. In determining whether a conviction is a first or second conviction under this subsection, a prior conviction for a criminal offense committed in another jurisdiction which would constitute a violation of section 709.3, subsection 2, if committed in this state, shall be considered a conviction under this subsection. The terms and conditions applicable to sentences for class "A" felons under chapters 901 through 909 shall apply to persons sentenced under this subsection.

Sec. 21. NEW SECTION. 903B.1 HORMONAL INTERVENTION THERAPY — CERTAIN SEX OFFENSES.

1. A person who has been convicted of a serious sex offense may, upon a first conviction and in addition to any other punishment provided by law, be required to undergo medroxyprogesterone acetate treatment as part of any conditions of release imposed by the court or the board of parole. The treatment prescribed in this section may utilize an approved pharmaceutical agent other than medroxyprogesterone acetate. Upon a second or subsequent conviction, the court or the board of parole shall require the person to undergo medroxyprogesterone acetate or other approved pharmaceutical agent treatment as a condition of release, unless, after an appropriate assessment, the court or board determines that the treatment would not be effective. In determining whether a conviction is a first or second conviction under this section, a prior conviction for a criminal offense committed in another

jurisdiction which would constitute a violation of section 709.3, subsection 2, if committed in this state, shall be considered a conviction under this section. This section shall not apply if the person voluntarily undergoes a permanent surgical alternative approved by the court or the board of parole.

2. If a person is placed on probation and is not in confinement at the time of sentencing, the presentence investigation shall include a plan for initiation of treatment as soon as is reasonably possible after the person is sentenced. If the person is in confinement prior to release on probation or parole, treatment shall commence prior to the release of the person from confinement. Conviction of a serious sex offense shall constitute exceptional circumstances warranting a presentence investigation under section 901.2.

3. If the serious sex offense is a felony, the court may include, in addition to any other punishment provided by law, that the person receive a special sentence committing the person into the custody of the director of the Iowa department of corrections for the rest of the person's life, with eligibility for parole as provided in chapter 906. The special sentence imposed under this subsection shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying serious sex offense and shall be supervised as if on parole, shall include the same treatment terms and conditions as required in subsection 1, and may include any other terms and conditions deemed appropriate to protect the public and promote the rehabilitation of the person. Notwithstanding section 906.15, a person receiving an additional special sentence pursuant to this subsection shall not be discharged from parole.

4. For purposes of this section, a "serious sex offense" means any of the following offenses in which the victim was a child who was, at the time the offense was committed, twelve years of age or younger:

- a. Sexual abuse in the first degree, in violation of section 709.2.
- b. Sexual abuse in the second degree, in violation of section 709.3.
- c. Sexual abuse in the third degree, in violation of section 709.4.
- d. Lascivious acts with a child, in violation of section 709.8.
- e. Assault with intent, in violation of section 709.11.
- f. Indecent contact with a minor, in violation of section 709.12.
- g. Lascivious conduct with a minor, in violation of section 709.14.
- h. Sexual exploitation by a counselor in violation of section 709.15.
- i. Sexual exploitation of a minor, in violation of section 728.12, subsections 1 and 2.

5. The department of corrections, in consultation with the board of parole, shall adopt rules which provide for the initiation of medroxyprogesterone acetate or other approved pharmaceutical agent treatment prior to the parole or work release of a person who has been convicted of a serious sex offense and who is required to undergo treatment as a condition of release by the board of parole. The department's rules shall also establish standards for the supervision of the treatment by the judicial district department of correctional services during the period of release. Each district department of correctional services shall adopt policies and procedures which provide for the initiation or continuation of medroxyprogesterone acetate or other approved pharmaceutical agent treatment as a condition of release for each person who is required to undergo the treatment by the court or the board of parole. The board of parole shall, in consultation with the department of corrections, adopt rules which relate to initiation or continuation of medroxyprogesterone acetate or other approved pharmaceutical agent treatment as a condition of any parole or work release. Any rules, standards, and policies and procedures adopted shall provide for the continuation of the treatment until the agency in charge of supervising the treatment determines that the treatment is no longer necessary.

6. A person who is required to undergo medroxyprogesterone acetate treatment, or treatment utilizing another approved pharmaceutical agent, pursuant to this section, shall be required to pay a reasonable fee to pay for the costs of providing the treatment. A requirement that a person pay a fee shall include provision for reduction, deferral, or waiver of payment if the person is financially unable to pay the fee.

Sec. 22. SEX OFFENDER TREATMENT INTERIM STUDY COMMITTEE. The legislative council is requested to authorize an interim study committee to issue a report to the general assembly which convenes in 1999, concerning the treatments available and used in the United States and other countries to rehabilitate juvenile and adult sex offenders and deter those persons from engaging in criminal sexual acts or activities in the future.

Approved May 6, 1998

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## CHAPTER 1172

### IOWA EDUCATIONAL SAVINGS PLAN TRUST

*H.F. 2119*

AN ACT providing for the creation of an Iowa educational savings plan trust, addressing tax aspects, and containing applicability provisions.

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

Section 1. NEW SECTION. 12D.1 PURPOSE AND DEFINITIONS.

The general assembly finds that the general welfare and well-being of the state are directly related to educational levels and skills of the citizens of the state, and that a vital and valid public purpose is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the state. The state has limited resources to provide additional programs for higher education funding and the continued operation and maintenance of the state's public institutions of higher education and the general welfare of the citizens of the state will be enhanced by establishing a program which allows citizens of the state to invest money in a public trust for future application to the payment of higher education costs. The creation of the means of encouragement for citizens to invest in such a program represents the carrying out of a vital and valid public purpose. In order to make available to the citizens of the state an opportunity to fund future higher education needs, it is necessary that a public trust be established in which moneys may be invested for future educational use. It is also necessary to establish an endowment fund which may be funded with public funds, among other sources, the income from which will be made available to participants in the trust to enhance their savings invested for the payment of future higher education costs.

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

1. "Administrative fund" means the administrative fund established under section 12D.4.
2. "Beneficiary" means the individual designated by a participation agreement to benefit from advance payments of higher education costs on behalf of the beneficiary.
3. "Benefits" means the payment of higher education costs on behalf of a beneficiary by the trust during the beneficiary's attendance at an institution of higher education.
4. "Endowment fund" means the endowment fund established under section 12D.4.
5. "Higher education costs" means the certified costs of tuition, fees, books, supplies, and equipment required for enrollment or attendance at an institution of higher education. Reasonable room and board expenses, based on the minimum amount applicable for the institution of higher education during the period of enrollment, shall be included as a higher education cost for those students enrolled on at least a half-time basis.
6. "Institution of higher education" means an institution described in section 481 of the federal Higher Education Act of 1965, 20 U.S.C. § 1088, which is eligible to participate in the United States department of education's student aid programs.