

CHAPTER 27**SEXUALLY VIOLENT PREDATORS — ESCAPE FROM CUSTODY**

S.F. 94

AN ACT creating a new criminal offense of escape from custody by a sexually violent predator civilly committed to confinement and providing a penalty.

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

Section 1. NEW SECTION. 229A.5B ESCAPE FROM CUSTODY.

1. A respondent who is in custody under this chapter shall remain in custody unless released by court order, or discharged under section 229A.10. A respondent in custody under this chapter shall not do any of the following:

a. Leave or attempt to leave a facility without the accompaniment of authorized personnel.
b. Knowingly and voluntarily be absent from a place where the respondent is required to be present.

c. Leave or attempt to leave the custody of personnel transporting or guarding the respondent while the respondent is away from a facility.

2. A respondent who violates subsection 1 commits a simple misdemeanor or may be subject to punishment for contempt. If the respondent pleads guilty to, or is convicted of, an offense under this section, or is found in contempt, or both, and is sentenced to a term of confinement, the civil commitment proceedings or treatment process may be stayed by court order until the term of confinement is served by the respondent.

3. If a respondent commits a violation of subsection 1 and remains unconfined, the attorney general or the chief law enforcement officer of the political subdivision where the violation occurs may make a public announcement that the respondent is unconfined and may provide relevant information about the respondent to the community. The attorney general may also notify a victim or the family of a victim of the respondent that the respondent is unconfined.

4. This section shall not be construed to prohibit the use of the interstate compact on mental health as provided in chapter 221.

Approved April 16, 2001

CHAPTER 28**CHARITABLE GIFT ANNUITIES**

S.F. 102

AN ACT relating to charitable gift annuities, by providing for notice and filing requirements and providing for penalties.

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

Section 1. Section 507B.3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~No~~ A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 of this chapter to be, an unfair method

of competition, or an unfair or deceptive act or practice in the business of insurance. The issuance of a qualified charitable gift annuity as provided in chapter 508F does not constitute a trade practice in violation of this chapter.

Sec. 2. NEW SECTION. 508F.1 DEFINITIONS.

As used in this chapter, unless the context clearly indicates otherwise:

1. "Charitable gift annuity" means a transfer of property by a donor to a charitable organization in return for an annuity payable over one or two lives, if the actuarial value of the annuity is less than the value of the property transferred and the difference in value constitutes a charitable deduction for federal tax purposes.
2. "Charitable organization" means an entity described by any of the following:
 - a. Section 501(c)(3) of the Internal Revenue Code.
 - b. Section 170(c) of the Internal Revenue Code.
 3. "Commissioner" means the commissioner of insurance.
 4. "Internal Revenue Code" means the Internal Revenue Code of 1986 as designated by the Tax Reform Act of 1986, as amended to a date designated by rules adopted by the commissioner.
 5. "Property" means anything of value that is subject to ownership, and includes but is not limited to property classified as real, personal, mixed, tangible or intangible, or any present or future interest in such property.
 6. "Qualified charitable gift annuity" means a charitable gift annuity that is described by section 501(m)(5) or 514(c)(5) of the Internal Revenue Code, if all of the following apply:
 - a. The annuity agreement is issued by a charitable organization.
 - b. On the date that the annuity agreement is issued, the charitable organization has a minimum value of the lesser of three hundred thousand dollars or five times the face amount of total outstanding annuities in unrestricted cash, cash equivalents, or publicly traded securities. However, the total outstanding annuities as provided in this paragraph do not include assets funding the annuity agreement.
 - c. The charitable organization has been in continuous operation for at least three years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least three years.

Sec. 3. NEW SECTION. 508F.2 QUALIFIED CHARITABLE GIFT ANNUITY IS NOT INSURANCE.

1. The issuance of a qualified charitable gift annuity does not constitute engaging in the business of insurance in this state.
2. A charitable gift annuity that meets the requirements of a qualified charitable gift annuity shall be deemed to be a qualified charitable gift annuity for purposes of this chapter, regardless of whether the charitable gift annuity was issued prior to the effective date of this Act. The issuance of that charitable gift annuity shall not be construed as engaging in the business of insurance in this state.

Sec. 4. NEW SECTION. 508F.3 ANNUITY AGREEMENT — NOTICE TO DONOR.

An agreement for a qualified charitable gift annuity executed by a charitable organization and a donor shall be in writing. The annuity agreement shall include a notice stating that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the commissioner or protected by an insurance guaranty fund or an insurance guaranty association. The notice required by this section shall be in a separate paragraph and in a type size no smaller than that generally used in the annuity agreement.

Sec. 5. NEW SECTION. 508F.4 NOTICE FILED WITH THE COMMISSIONER.

1. A charitable organization that issues qualified charitable gift annuities in this state on and after the effective date of this Act shall file a notice with the commissioner in writing not

later than the date on which it executes the organization's first qualified charitable annuity agreement. All of the following shall apply:

- a. The notice must be signed by an officer or director of the charitable organization.
 - b. The notice must identify the name and address of the charitable organization.
 - c. The notice must include a copy of the determination letter issued by the internal revenue service.
 - d. The notice must certify that the charitable organization is a bona fide charitable organization and that the annuities issued by the charitable organization are qualified charitable gift annuities.
2. The charitable organization is not required to submit additional information, unless the information is to be used to determine appropriate penalties that may be applicable under section 508F.5.

Sec. 6. NEW SECTION. 508F.5 FAILURE TO COMPLY WITH REQUIREMENTS.

1. The failure of a charitable organization to comply with the requirements of sections 508F.3 and 508F.4 does not prevent a charitable gift annuity that otherwise meets the requirements of this chapter from constituting a qualified charitable gift annuity.
2. The commissioner shall enforce performance of the requirements of sections 508F.3 and 508F.4. The commissioner may do any of the following:
 - a. Send a letter by restricted certified mail to the charitable organization demanding that the charitable organization comply with this chapter.
 - b. Establish and impose civil penalties on the charitable organization in an amount not to exceed one thousand dollars for each qualified charitable gift annuity issued until the charitable organization complies with the requirements of this chapter.

Sec. 7. NEW SECTION. 508F.6 PENALTIES.

The commissioner may determine, after hearing, that the issuance of an annuity is not in compliance with this chapter and that the entity issuing the annuity is subject to the provisions and penalties of chapters 507A and 507B.

Sec. 8. NEW SECTION. 508F.7 NOT UNFAIR OR DECEPTIVE TRADE PRACTICE.

The issuance of a qualified charitable gift annuity does not constitute a violation of chapter 507B.

Sec. 9. NEW SECTION. 508F.8 RULES.

The commissioner may adopt rules pursuant to chapter 17A necessary to administer and enforce this chapter.

Sec. 10. NOTICE FILING REQUIREMENTS — DEADLINE. Notwithstanding section 508F.4 as enacted in this Act, a charitable organization that issues qualified charitable gift annuities in this state on and after the effective date of this Act shall have ninety days following the effective date of this Act to file a notice with the commissioner as otherwise provided in section 508F.4.

Approved April 16, 2001