

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H1019	5
H1020	6
H1021	7
H1022	8
H1023	9
H1024	10
H1025	11
H1026	12
H1027	13
H1028	14
H1029	15
H1030	16
H1031	17
H1032	18
H1033	19
H1034	20
H1035	21
H1036	22
H1037	23
H1038	24
H1039	25
H1040	26
H1041	27
H1042	28
H1043	29
H1044	30
H1045	31
H1046	32
H1047	33
H1048	34
H1049	35
H1050	36
H1051	37
H1052	38
H1053	39
H1054	40

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H1055	41
H1056	42
H1057	43
H1058	44
H1059	45
H1060	46
H1061	47
H1062	48
H1063	49
H1064	50
H1065	51
H1066	52
H1067	53
H1068	54
H1069	55
H1070	56
H1071	57
H1072	58
H1073	59
H1074	60
H1075	61
H1076	62
H1077	63
H1078	64
H1079	65
H1080	66
H1081	67
H1082	68
H1083	69
H1084	70
H1085	71
H1086	72
H1087	73
H1088	74
H1089	75
H1090	76

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H1091	77
H1092	79
H1093	80
H1094	82
H1095	86
H1096	87
HSB101	88
HSB102	90
HSB103	92
HSB104	97
HSB105	126
HSB106	138
HSB107	141
S3018	148
SF231	151
SF232	158
SF233	160
SF234	162
SF235	164
SF236	166
SF237	182
SF238	188
SF239	191
SF240	193
SF241	197
SF242	203
SF243	209
SSB1084	216
SSB1085	225
SSB1086	234
SSB1087	253
SSB1088	265
SSB1089	271
SSB1090	273
SSB1091	276
SSB1092	282

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

SSB1093	295
SSB1094	314
SSB1095	317
SSB1096	346
SSB1097	373
SSB1098	403
SSB1099	410

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1019

- 1 Amend House File 291 as follows:
- 2 1. Title page, by striking the enacting clause.

HUNTER of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1020

- 1 Amend House File 291 as follows:
- 2 1. Page 45, by striking lines 13 through 23.
- 3 2. By renumbering as necessary.

KACENA of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1021

1 Amend House File 291 as follows:

2 1. Page 2, line 15, by striking <for proper cause>
3 and inserting <for ~~proper~~ just cause>

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1022

- 1 Amend House File 291 as follows:
- 2 1. Page 17, after line 14 by inserting:
- 3 <Sec. ____ . REPEAL. Section 20.1, Code 2017, is
- 4 repealed.>
- 5 2. By renumbering as necessary.

HUNTER of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1023

- 1 Amend House File 291 as follows:
- 2 1. Page 1, by striking lines 27 through 30.
- 3 2. Page 18, by striking lines 22 and 23 and
- 4 inserting:
- 5 <1. This division of>
- 6 3. By renumbering as necessary.

HUNTER of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1024

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <____. An individual employed by the department
- 4 of transportation for the purpose of maintenance of
- 5 primary roads.>
- 6 2. By renumbering as necessary.

WESSEL-KROESCHELL of Story

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1025

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <___. An individual employed for the purpose of
- 4 plowing snow.>
- 5 2. By renumbering as necessary.

WESSEL-KROESCHELL of Story

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1026

1 Amend House File 291 as follows:

2 1. Page 46, after line 21 by inserting:

3 <DIVISION ____

4 CONTINGENT EFFECTIVE DATE — GENDER IMPACT ANALYSIS

5 Sec. ____ . CONTINGENT EFFECTIVE DATE — GENDER

6 IMPACT ANALYSIS. This Act shall not become
7 effective until the date on which the department of
8 administrative services, in consultation with all other
9 appropriate public entities, completes an analysis of
10 the impact of the provisions of this Act on women in
11 this state, publishes the analysis on the department's
12 internet site, and submits a copy of the analysis to
13 the Iowa Code editor.>

14 2. By renumbering as necessary.

STECKMAN of Cerro Gordo

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1027

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <____. A correctional officer employed by the
- 4 department of corrections.>
- 5 2. By renumbering as necessary.

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1028

1 Amend House File 291 as follows:

2 1. Page 1, after line 21 by inserting:

3 <____. A registered nurse licensed under chapter 152
4 or 152E.>

5 2. By renumbering, redesignating, and correcting
6 internal references as necessary.

BROWN-POWERS of Black Hawk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1029

- 1 Amend House File 291 as follows:
- 2 1. Page 33, after line 13 by inserting:
- 3 <Sec. ____ . NEW SECTION. 279.70 **Maximum class size.**
- 4 The class size of any class taught in a school
- 5 district in this state shall not exceed twenty-five
- 6 students for every one teacher.>
- 7 2. By renumbering as necessary.

NIELSEN of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1030

1 Amend House File 291 as follows:

2 1. Page 4, lines 1 and 2, by striking <leaves of
3 absence for political activities,>

NIELSEN of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1031

1 Amend House File 291 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 20.3, Code 2017, is amended by
5 adding the following new subsection:

6 NEW SUBSECTION. 10A. *"Public safety employee"*

7 means a public employee who is employed as one of the
8 following:

9 a. A sheriff or a sheriff's regular deputy.

10 b. A marshal or police officer of a city, township,
11 or special-purpose district or authority who is a
12 member of a paid police department.

13 c. A member, except a non-peace officer member, of
14 the division of state patrol, narcotics enforcement,
15 state fire marshal, or criminal investigation,
16 including but not limited to a gaming enforcement
17 officer, who has been duly appointed by the department
18 of public safety in accordance with section 80.15.

19 d. A conservation officer or park ranger as
20 authorized by section 456A.13.

21 e. A permanent or full-time fire fighter of a city,
22 township, or special-purpose district or authority who
23 is a member of a paid fire department.>

24 2. Title page, by striking lines 2 through 7 and
25 inserting <employees including collective bargaining.>

HUNTER of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1032

1 Amend House File 291 as follows:

2 1. Page 1, after line 21 by inserting:

3 <____. An emergency medical care provider certified
4 under chapter 147A.>

5 2. By renumbering, redesignating, and correcting
6 internal references as necessary.

KACENA of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1033

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <___. A social worker licensed under chapter 154C.>
- 4 2. By renumbering, redesignating, and correcting
- 5 internal references as necessary.

NIELSEN of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1034

1 Amend House File 291 as follows:

2 1. Page 2, line 11, by striking <subsections 2 and
3 3,> and inserting <subsection 2,>

4 2. Page 2, line 11, by striking <are> and inserting
5 <is>

6 3. Page 2, by striking line 15.

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1035

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <____. An officer employed for work in a
- 4 community-based correctional facility.>
- 5 2. By renumbering, redesignating, and correcting
- 6 internal references as necessary.

KEARNS of Lee

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1036

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <__. An individual employed as a building
- 4 inspector.>
- 5 2. By renumbering, redesignating, and correcting
- 6 internal references as necessary.

McCONKEY of Pottawattamie

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1037

1 Amend House File 291 as follows:

2 1. Page 1, after line 21 by inserting:

3 < _____. An individual whose terms or conditions of
4 employment include work with a contagious or infectious
5 disease as defined in section 141A.2.>

6 2. By renumbering, redesignating, and correcting
7 internal references as necessary.

FORBES of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1038

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 3, by striking <evaluation
- 3 procedures,>

STECKMAN of Cerro Gordo

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1039

1 Amend House File 291 as follows:

2 1. Page 3, line 15, after <wages> by inserting <
3 seniority,>

4 2. Page 4, line 5, before <grievance> by inserting
5 <and>

6 3. Page 4, by striking lines 6 and 7 and inserting
7 <the agreement shall.>

KEARNS of Lee

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1040

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, by striking <insurance,>

RUNNING-MARQUARDT of Linn

HALL of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1041

- 1 Amend House File 291 as follows:
- 2 1. Page 3, line 15, after <wages> by inserting <,
3 insurance,>
- 4 2. Page 4, line 1, by striking <insurance,>

BROWN-POWERS of Black Hawk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1042

- 1 Amend House File 291 as follows:
- 2 1. Page 3, line 15, after <wages> by inserting <,
3 establishment of classroom supply funds,>

BROWN-POWERS of Black Hawk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1043

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <___. A parole officer as described in section
- 4 906.2.>
- 5 2. By renumbering, redesignating, and correcting
- 6 internal references as necessary.

WOLFE of Clinton

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1044

- 1 Amend House File 291 as follows:
2 1. Page 2, line 35, after <training,> by inserting
3 <reasonable accommodations for pregnant employees,>
4 2. Page 3, line 15, by striking <wages> and
5 inserting <wages, reasonable accommodations for
6 pregnant employees,>

RUNNING-MARQUARDT of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1045

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except for insurance coverage for terminal care>

LENSING of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1046

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except dental insurance>

FORBES of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1047

1 Amend House File 291 as follows:

2 1. Page 4, line 1, after <insurance> by inserting

3 <except insurance coverage for obstetrical and

4 gynecological services>

RUNNING-MARQUARDT of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1048

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except for insurance coverage for mammography>

MILLER of Webster

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1049

1 Amend House File 291 as follows:

2 1. Page 3, line 15, after <wages> by inserting <
3 evaluation procedures,>

4 2. Page 4, line 3, by striking <evaluation
5 procedures,>

WINCKLER of Scott

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1050

1 Amend House File 291 as follows:

2 1. Page 46, after line 21 by inserting:

3 <DIVISION ____

4 CONTINGENT EFFECTIVE DATE — MINORITY IMPACT ANALYSIS

5 Sec. ____ . CONTINGENT EFFECTIVE DATE — MINORITY

6 IMPACT ANALYSIS. This Act shall not become

7 effective until the date on which the department of

8 administrative services, in consultation with all other

9 appropriate public entities, completes an analysis of

10 the impact of the provisions of this Act on minority

11 persons in this state, publishes the analysis on the

12 department's internet site, and submits a copy of the

13 analysis to the Iowa Code editor.>

14 2. By renumbering, redesignating, and correcting

15 internal references as necessary.

GAINES of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1051

- 1 Amend House File 291 as follows:
- 2 1. Page 2, line 35, after <training,l> by inserting
- 3 <provision of bullet proof vests,>
- 4 2. Page 3, line 15, after <wages> by inserting <l
- 5 provision of bullet proof vests,>

BENNETT of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1052

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except for insurance coverage for autism>

HEDDENS of Story

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1053

1 Amend House File 291 as follows:

2 1. Page 46, after line 21 by inserting:

3 <DIVISION ____

4 CONTINGENT EFFECTIVE DATE — VETERAN IMPACT ANALYSIS

5 Sec. ____ . CONTINGENT EFFECTIVE DATE — VETERAN

6 IMPACT ANALYSIS. This Act shall not become

7 effective until the date on which the department of

8 administrative services, in consultation with all other

9 appropriate public entities, completes an analysis of

10 the impact of the provisions of this Act on veterans in

11 this state, publishes the analysis on the department's

12 internet site, and submits a copy of the analysis to

13 the Iowa Code editor.>

14 2. By renumbering as necessary.

KEARNS of Lee

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1054

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except for insurance coverage for speech therapy>

GAINES of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1055

1 Amend House File 291 as follows:

2 1. Page 1, after line 21 by inserting:

3 <____. An officer employed for work in a civil
4 commitment unit for sex offenders operated by the
5 department of human services.>

6 2. By renumbering, redesignating, and correcting
7 internal references as necessary.

BEARINGER of Fayette

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1056

1 Amend House File 291 as follows:

2 1. Page 46, after line 21 by inserting:

3 <DIVISION __

4 CONTINGENT EFFECTIVE DATE — HEALTH INSURANCE

5 Sec. __. CONTINGENT EFFECTIVE DATE — HEALTH
6 INSURANCE. This Act shall not become effective until
7 the date on which the director of the department of
8 administrative services or another appropriate official
9 certifies in writing to the Iowa Code editor that
10 each public employee to whom a public employer is
11 required to offer health insurance pursuant to section
12 70A.41, as enacted by this Act, has been offered health
13 insurance by the public employee's public employer as
14 required by section 70A.41, as enacted by this Act.>
15 2. By renumbering as necessary.

PRICHARD of Floyd

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1057

1 Amend House File 291 as follows:

2 1. Page 4, line 1, after <insurance> by inserting
3 <except for insurance coverage for veterans for mental
4 illness>

KEARNS of Lee

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1058

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except for insurance coverage for physical therapy>

BRECKENRIDGE of Jasper

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1059

1 Amend House File 291 as follows:

2 1. Page 4, line 1, after <insurance> by inserting
3 <except for supplemental coverage for adopted or newly
4 born children>

FINKENAUER of Dubuque

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1060

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except for insurance coverage for chemotherapy>

OLDSON of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1061

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except insurance coverage for hearing tests>

FINKENAUER of Dubuque

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1062

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except pediatric insurance>

BENNETT of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1063

- 1 Amend House File 291 as follows:
2 1. Page 4, line 1, after <insurance> by inserting
3 <except for insurance coverage for participation in
4 clinical trials>

FORBES of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1064

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <____. A teacher licensed under chapter 272.>
- 4 2. By renumbering as necessary.

NIELSEN of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1065

1 Amend House File 291 as follows:

2 1. Page 1, after line 21 by inserting:

3 <____. An individual who is a veteran as defined
4 in section 35.1 or who serves or served honorably on
5 federal active duty, state active duty, or national
6 guard duty, as defined in section 29A.1.>

7 2. By renumbering, redesignating, and correcting
8 internal references as necessary.

KEARNS of Lee

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1066

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <A probation officer acting pursuant to section
- 4 602.7202, subsection 4, and section 907.2.>
- 5 2. By renumbering as necessary.

HALL of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1067

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 1, after <insurance> by inserting
- 3 <except for insurance coverage for diabetes>

FORBES of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1068

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 2, by striking <supplemental pay>

STECKMAN of Cerro Gordo

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1069

1 Amend House File 291 as follows:

2 1. Page 4, lines 5 and 6, by striking <grievance
3 procedures for resolving any questions arising under
4 the agreement,>

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1070

1 Amend House File 291 as follows:

- 2 1. Page 3, line 15, after <wages> by inserting
3 <, grievance procedures for resolving any questions
4 arising under the agreement,>
5 2. Page 4, lines 5 and 6, by striking <grievance
6 procedures for resolving any questions arising under
7 the agreement,>

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1071

- 1 Amend House File 291 as follows:
- 2 1. Page 3, line 15, after <wages> by inserting <,
3 leaves of absence,>
- 4 2. Page 4, lines 1 and 2, by striking <leaves of
5 absence for political activities,>

BRECKENRIDGE of Jasper

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1072

1 Amend House File 291 as follows:

2 1. Page 4, line 5, before <grievance> by inserting
3 <and>

4 2. Page 4, by striking lines 6 and 7 and inserting
5 <the agreement shall.>

KEARNS of Lee

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1073

- 1 Amend House File 291 as follows:
- 2 1. Page 4, line 4, by striking <release time,>

BEARINGER of Fayette

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1074

- 1 Amend House File 291 as follows:
- 2 1. Page 3, line 15, after <wages> by inserting <
3 procedures for staff reduction,>
- 4 2. Page 4, lines 3 and 4, by striking <procedures
5 for staff reduction,>

MASCHER of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1075

- 1 Amend House File 291 as follows:
- 2 1. Page 2, line 35, after <training,l> by inserting
- 3 <working conditions,>
- 4 2. Page 3, line 15, after <wages> by inserting <,
- 5 working conditions,>

RUNNING-MARQUARDT of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1076

- 1 Amend House File 291 as follows:
2 1. Page 46, after line 21 by inserting:
3 <DIVISION ____
4 VETERANS HIRING PREFERENCE — CONSTRUCTION
5 Sec. ____ . VETERANS HIRING PREFERENCE —
6 CONSTRUCTION. This Act shall not be construed to
7 supersede, conflict with, or diminish any hiring
8 preference for veterans established under state or
9 federal law.>
10 2. By renumbering as necessary.

KACENA of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1077

- 1 Amend House File 291 as follows:
- 2 1. Page 4, after line 10 by inserting:
- 3 <Sec. ____ Section 20.10, subsection 2, Code 2017,
- 4 is amended by adding the following new paragraph:
- 5 NEW PARAGRAPH. *i.* Provide to any individual
- 6 employed as an administrator a benefits package which
- 7 exceeds the terms of a benefits package which the
- 8 public employer provides to any member of a bargaining
- 9 unit employed by the public employer.>
- 10 2. By renumbering as necessary.

BENNETT of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1078

- 1 Amend House File 291 as follows:
- 2 1. Page 3, line 15, after <wages> by inserting <,
3 supplemental pay,>
- 4 2. Page 4, line 2, by striking <supplemental pay,>

STECKMAN of Cerro Gordo

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1079

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <____. A peace officer employed by a board of
- 4 regents institution as set forth in section 262.13.>
- 5 2. By renumbering as necessary.

LENSING of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1080

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <___. An officer employed for work in a residential
- 4 treatment facility or center.>
- 5 2. By renumbering, redesignating, and correcting
- 6 internal references as necessary.

STAED of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1081

- 1 Amend House File 291 as follows:
- 2 1. Page 3, line 15, after <wages> by inserting <,
3 shift differentials,>

KACENA of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1082

1 Amend House File 291 as follows:

2 1. Page 46, after line 21 by inserting:

3 <DIVISION __

4 APPLICABILITY — VETERANS

5 Sec. __. APPLICABILITY — VETERANS. No provision
6 of this Act shall apply to any veteran in this state.
7 For purposes of this section, "veteran" means an
8 individual who is a veteran as defined in section 35.1
9 or who serves or served honorably on federal active
10 duty, state active duty, or national guard duty as
11 defined in section 29A.1.>

12 2. By renumbering as necessary.

PRICHARD of Floyd

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1083

- 1 Amend House File 291 as follows:
- 2 1. Page 6, by striking lines 2 through 5 and
- 3 inserting <exclusive representative of that bargaining
- 4 unit or of the>
- 5 2. By striking page 6, line 12, through page 7,
- 6 line 8.
- 7 3. Page 8, line 2, by striking <certification,
- 8 retention and recertification,> and inserting
- 9 <certification>
- 10 4. Page 15, by striking lines 25 through 32.
- 11 5. Page 16, lines 1 and 2, by striking
- 12 <certification, retention and recertification,> and
- 13 inserting <certification>
- 14 6. By striking page 16, line 33, through page 17,
- 15 line 14.
- 16 7. Page 19, by striking lines 12 through 14.
- 17 8. By renumbering as necessary.

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1084

- 1 Amend House File 291 as follows:
- 2 1. Page 4, lines 2 and 3, by striking <transfer
- 3 procedures,>

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1085

- 1 Amend House File 291 as follows:
- 2 1. Page 2, line 35, after <training,> by inserting
- 3 <scheduling of work shifts,>
- 4 2. Page 3, line 15, by striking <wages> and
- 5 inserting <wages, scheduling of work shifts,>

KACENA of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1086

- 1 Amend House File 291 as follows:
- 2 1. Page 1, after line 21 by inserting:
- 3 <__. An individual serving on state active duty as
- 4 defined in section 29A.1.>
- 5 2. By renumbering, redesignating, and correcting
- 6 internal references as necessary.

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1087

1 Amend House File 291 as follows:

2 1. Page 3, line 15, after <wages> by inserting <
3 health and safety matters,>

HUNTER of Polk

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1088

1 Amend House File 291 as follows:

2 1. Page 22, by striking lines 23 through 27 and
3 inserting <or civil jurisdiction. The board shall
4 cause subpoenas to be issued for such witnesses and the
5 production of such books and papers as either the board
6 or the teacher may designate. The subpoenas shall be
7 signed by the presiding officer of the board.>

WOLFE of Clinton

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1089

1 Amend House File 291 as follows:

2 1. By striking page 39, line 10, through page 45,
3 line 33.

4 2. Title page, line 4, by striking <city civil
5 service requirements,>

KACENA of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1090

1 Amend House File 291 as follows:

- 2 1. Page 12, line 7, after <work> by inserting <and
3 having comparable levels of education and experience>
4 2. Page 13, line 30, after <work> by inserting <and
5 having comparable levels of education and experience>
6 3. Page 13, line 35, after <work> by inserting <and
7 having comparable levels of education and experience>

NIELSEN of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1091

1 Amend House File 291 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 8F.3, subsection 1, paragraphs
5 b and d, Code 2017, are amended to read as follows:

6 *b.* Information regarding the training and education
7 received by the members of the governing body of
8 the recipient entity relating to the duties and
9 legal responsibilities of the governing body. The
10 information shall also include certification that
11 the members of the governing body have completed a
12 training program established pursuant to section 19B.7,
13 subsection 3.

14 *d.* Information regarding any policies adopted
15 by the governing body of the recipient entity that
16 prohibit taking adverse employment action against
17 employees of the recipient entity who disclose
18 information about a service contract, to include
19 information about the pay and benefits received by
20 an employee of a recipient entity, to the oversight
21 agency, the auditor of state, the office of the
22 attorney general, or the office of ombudsman and
23 that state whether those policies are substantially
24 similar to the protection provided to state employees
25 under [section 70A.28](#). The information provided shall
26 state whether employees of the recipient entity are
27 informed on a regular basis of their rights to disclose
28 information to the oversight agency, the office of
29 ombudsman, the auditor of state, or the office of the
30 attorney general and the telephone numbers of those
31 organizations.

32 Sec. 2. Section 19B.7, Code 2017, is amended by
33 adding the following new subsection:

34 NEW SUBSECTION. 3. The department of
35 administrative services, in coordination with

HF291.336 (3) 87

-1-

je/rj

1/2

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

1 the Iowa civil rights commission, shall establish a
2 training program for prospective recipient entities, as
3 defined in section 8F.2, concerning the requirements
4 of this section, and chapter 216, relative to the
5 administration and promotion of equal opportunity and
6 the prohibition of discriminatory and unfair practices
7 within any program receiving or benefiting from state
8 financial assistance. The program shall specifically
9 include guidance relative to unfair employment
10 practices as described in section 216.6, and wage
11 discrimination in employment prohibitions as described
12 in section 216.6A.>

13 2. Title page, by striking lines 1 through 7 and
14 inserting <An Act relating to employment matters
15 involving service contract recipients.>

FINKENAUER of Dubuque

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1092

1 Amend House File 291 as follows:

2 1. Page 15, after line 24 by inserting:

3 <Sec. ____ . NEW SECTION. 20.32 Wage increases —
4 health insurance costs.

5 Notwithstanding any other provision of this chapter
6 to the contrary, a collective bargaining agreement
7 shall provide an annual percentage increase in wages or
8 base wages, as applicable, which is at least equal to
9 any percentage increase in the cost of health insurance
10 offered to the bargaining unit by the public employer
11 over the cost for the previous year.>

12 2. By renumbering as necessary.

GASKILL of Wapello

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1093

1 Amend House File 291 as follows:

2 1. Page 2, line 26, by striking <a majority of
3 members who are public safety employees> and inserting
4 <at least one member who is a public safety employee>

5 2. Page 3, line 11, by striking <a majority of
6 members who are public safety employees> and inserting
7 <at least one member who is a public safety employee>

8 3. Page 3, line 35, through page 4, line 1, by
9 striking <a majority of members who are public safety
10 employees> and inserting <at least one member who is
11 a public safety employee>

12 4. Page 11, lines 2 and 3, by striking <a majority
13 of members who are public safety employees> and
14 inserting <at least one member who is a public safety
15 employee>

16 5. Page 11, line 34, by striking <a majority of
17 members who are public safety employees> and inserting
18 <at least one member who is a public safety employee>

19 6. Page 12, lines 31 and 32, by striking <a
20 majority of members who are public safety employees>
21 and inserting <at least one member who is a public
22 safety employee>

23 7. Page 13, lines 22 and 23, by striking <a
24 majority of members who are public safety employees>
25 and inserting <at least one member who is a public
26 safety employee>

27 8. Page 41, lines 24 and 25, by striking <a
28 majority of members who are public safety employees>
29 and inserting <at least one member who is a public
30 safety employee>

31 9. Page 44, lines 18 and 19, by striking <a
32 majority of members who are public safety employees>
33 and inserting <at least one member who is a public
34 safety employee>

HF291.333 (3) 87

-1-

je/rj

1/2

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

KACENA of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1094

1 Amend House File 291 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <DIVISION I

5 WAGE DISCRIMINATION IN EMPLOYMENT

6 Section 1. Section 216.6A, Code 2017, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 2A. It shall be an unfair or
9 discriminatory practice for any employer or agent of
10 any employer to do any of the following:

11 *a.* Require, as a condition of employment, that
12 an employee refrain from disclosing, discussing,
13 or sharing information about the amount of the
14 employee's wages, benefits, or other compensation or
15 from inquiring, discussing, or sharing information
16 about any other employee's wages, benefits, or other
17 compensation.

18 *b.* Require, as a condition of employment, that an
19 employee sign a waiver or other document that requires
20 an employee to refrain from engaging in any of the
21 activities permitted under paragraph "a".

22 *c.* Discriminate or retaliate against an employee
23 for engaging in any of the activities permitted under
24 paragraph "a".

25 *d.* Seek salary history information, including
26 but not limited to information on compensation and
27 benefits, from a potential employee as a condition of a
28 job interview or employment. This paragraph shall not
29 be construed to prohibit a prospective employer from
30 asking a prospective employee what salary level the
31 prospective employee would require in order to accept
32 a job.

33 *e.* Release the salary history, including but
34 not limited to information on compensation and
35 benefits, of any current or former employee to any

HF291.337 (3) 87

-1-

je/rj

1/4

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

1 prospective employer in response to a request as part
2 of an interview or hiring process without written
3 authorization from such current or former employee.
4 *f.* Publish, list, or post within the employer's
5 organization, with any employment agency, job-listing
6 service, or internet site, or in any other public
7 manner, an advertisement to recruit candidates for hire
8 or independent contractors to fill a position within
9 the employer's organization without including the
10 minimum rate of pay of the position. The rate of pay
11 may be by the hour, shift, day, week, salary, piece,
12 commission, or other applicable rate. The rate of pay
13 shall include overtime and allowances, if any, claimed
14 as part of the minimum wage, including but not limited
15 to tipped wages.
16 *g.* Pay a newly hired employee at less than the
17 rate of pay advertised for the employee's position as
18 required under paragraph *f*.

19 DIVISION II
20 WAGE DISCRIMINATION — EQUAL PAY TASK FORCE AND REPORT
21 Sec. 2. EQUAL PAY TASK FORCE AND REPORT.
22 1. An equal pay task force is created. The task
23 force shall consist of the following members:
24 a. The director of the civil rights commission, or
25 the director's designee.
26 b. The director of the department of human rights,
27 or the director's designee.
28 c. An employee of the labor market information
29 division of the department of workforce development
30 designated by the director of the department.
31 d. A representative of the association of business
32 and industry, appointed by the president of the
33 association.
34 e. A member of a statewide labor organization
35 designated by the legislative council, appointed by the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

1 president of the organization.

2 f. Two representatives of organizations whose
3 objectives include the elimination of pay disparities
4 between men and women and minorities and nonminorities
5 and that have undertaken advocacy, educational, or
6 legislative initiatives in pursuit of such objectives
7 appointed by the director of the civil rights
8 commission in consultation with the leadership of those
9 organizations.

10 g. Two representatives of postsecondary education
11 institutions who have experience and expertise in
12 the collection and analysis of data concerning pay
13 disparities between men and women and minorities and
14 nonminorities and whose research has been used in
15 efforts to promote the elimination of such disparities
16 appointed by the director of the civil rights
17 commission in consultation with the leadership of those
18 institutions.

19 h. Four members of the general assembly serving
20 as ex officio, nonvoting members, one representative
21 to be appointed by the speaker of the house of
22 representatives, one representative to be appointed by
23 the minority leader of the house of representatives,
24 one senator to be appointed by the majority leader of
25 the senate, and one senator to be appointed by the
26 minority leader of the senate.

27 2. The task force shall study all of the following:

28 a. The extent of wage disparities, both in the
29 public and private sectors, between men and women and
30 between minorities and nonminorities.

31 b. Factors that cause, or which tend to cause, such
32 disparities, including segregation between women and
33 men and between minorities and nonminorities across
34 and within occupations, payment of lower wages for
35 work in female-dominated occupations, child-rearing

HF291.337 (3) 87

-3-

je/rj

3/4

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

1 responsibilities, the number of women who are heads of
2 households, education, hours worked, and years on the
3 job.

4 c. The consequences of such disparities on the
5 economy and affected families.

6 d. Actions likely to lead to the elimination and
7 prevention of such disparities.

8 3. The civil rights commission shall provide
9 staffing services for the task force.

10 4. The voting members shall elect a chairperson
11 from the voting membership of the task force. A
12 majority of the voting members of the task force
13 constitutes a quorum.

14 5. Voting members of the task force shall receive
15 reimbursement for actual expenses incurred while
16 serving in their official capacity only if they are not
17 eligible for reimbursement by the organization that
18 they represent. Legislative members shall be paid the
19 per diem and expenses specified in section 2.10.

20 6. The task force shall submit a report regarding
21 its findings and its recommendations regarding
22 potential actions for the elimination and prevention
23 of disparities in wages between men and women and
24 minorities and nonminorities to the governor and the
25 general assembly no later than December 22, 2017.>

26 2. Title page, by striking lines 1 through 7 and
27 inserting <An Act relating to employment matters
28 involving wage discrimination and creating an equal pay
29 task force.>

FINKENAUER of Dubuque

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1095

1 Amend House File 291 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. WISCONSIN COLLECTIVE BARGAINING
5 LEGISLATION INTERIM STUDY COMMITTEE. The legislative
6 council is requested to authorize the establishment
7 of an interim study committee, composed of members
8 of the senate and the house of representatives, to
9 commence meeting during the 2017 legislative interim.
10 The purpose of the interim study committee is to study
11 the effects of the provisions of 2011 Wisconsin Act
12 10 relating to public employee collective bargaining.
13 The study committee shall examine the effects of such
14 provisions of 2011 Wisconsin Act 10 on the quality of
15 public services delivered by public employees, the cost
16 of delivery of such services, and any other positive
17 or negative outcomes relating to public services.
18 The study committee shall report its findings and any
19 recommendations to the general assembly relating to
20 2011 Wisconsin Act 10 no later than January 5, 2018.>
21 2. Title page, by striking lines 1 through 7 and
22 inserting <An Act providing for an interim study
23 committee relating to certain legislation relating to
24 public employee collective bargaining enacted by the
25 state of Wisconsin.>

T. TAYLOR of Linn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House File 291

H-1096

1 Amend House File 291 as follows:

2 1. By striking page 43, line 7, through page 44,
3 line 6, and inserting:

4 <Sec. ____ . Section 400.27, unnumbered paragraph 3,
5 Code 2017, is amended to read as follows:

6 The city or any civil service employee shall have a
7 right to appeal to the district court from the final
8 ruling or decision of the civil service commission.
9 The appeal shall be taken within thirty days from
10 the filing of the formal decision of the commission.
11 The district court of the county in which the city
12 is located shall have full jurisdiction of the appeal
13 ~~and the said appeal shall be a trial de novo as an~~
14 ~~equitable action in the district court. The scope of~~
15 ~~review for the appeal shall be limited to mistakes of~~
16 ~~fact or law.~~>

17 2. Page 46, line 3, after <all> by inserting
18 <permanent, full-time>

DEYOE of Story

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House Study Bill 101 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON GRASSLEY)

A BILL FOR

1 An Act relating to a requirement that undergraduate students
2 enrolled in an institution of higher education governed
3 by the state board of regents complete a one-credit hour
4 financial literacy course and including applicability
5 provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2407YC (2) 87
kh/jh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 Section 1. Section 262.9, Code 2017, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 39. Require that undergraduate students
4 enrolled in an institution of higher education governed by the
5 board complete a one-credit hour financial literacy course
6 offered by the institution.

7 Sec. 2. APPLICABILITY. This Act applies to all students who
8 are enrolled in an institution of higher education governed by
9 the state board of regents and who will graduate from such an
10 institution on or after July 1, 2018.

11 **EXPLANATION**

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill directs the state board of regents to require
15 that undergraduate students enrolled in a regents university
16 complete a one-credit hour financial literacy course offered
17 by the university.

18 The bill applies to students who are enrolled in a regents
19 university and who will graduate from such a university on or
20 after July 1, 2018.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House Study Bill 102 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act concerning the authority of a native wine manufacturer
2 to sell native wine for on-premises consumption.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1928HC (1) 87
ec/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 Section 1. Section 123.56, subsection 5, Code 2017, is
2 amended to read as follows:

3 5. Notwithstanding any other provision of [this chapter](#), a
4 person engaged in the business of manufacturing native wine
5 may sell native wine at retail for consumption on the premises
6 of the ~~manufacturing facility~~ manufacturer or in a retail
7 establishment operated by the manufacturer by applying for a
8 class "C" native wine permit as provided in [section 123.178B](#).
9 A manufacturer of native wine may be granted not more than ~~one~~
10 two class "C" native wine ~~permit~~ permits.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill concerns manufacturers of native wines.

15 The bill authorizes a manufacturer of native wine to be
16 granted up to two class "C" native wine permits to sell
17 native wine at retail for consumption on the premises of the
18 manufacturer or in a retail establishment operated by the
19 manufacturer. Current law allows a manufacturer one class
20 "C" native wine permit to sell native wine at retail for
21 consumption on the premises of the manufacturing facility.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House Study Bill 103 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to the assessment of certain subdivided real
2 property and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2238HC (2) 87
md/jh/sc

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 Section 1. Section 405.1, Code 2017, is amended to read as
2 follows:

3 **405.1 Housing development — tax status — limitation.**

4 ~~1. a. The board of supervisors of a county may adopt~~
5 ~~an ordinance providing that property~~ Property ~~acquired and~~
6 ~~subdivided for development of housing on or after January~~
7 ~~1, 2011,~~ shall continue to be assessed for taxation in the
8 manner that it was prior to the acquisition for housing. Each
9 lot shall continue to be taxed in the manner it was prior
10 to its acquisition for housing until the lot is sold for
11 construction or occupancy of housing ~~or five years from the~~
12 ~~date of subdivision, whichever is shorter.~~ Upon the sale or
13 ~~the expiration of the five-year period,~~ the property shall be
14 assessed for taxation as residential, multiresidential, or
15 commercial multifamily property, whichever is applicable.

16 ~~b. Ordinances adopted under this section, to the extent~~
17 ~~such ordinances affect the assessment of property subdivided~~
18 ~~for development of housing on or after January 1, 2004, but~~
19 ~~before January 1, 2011, shall remain in effect or otherwise~~
20 ~~be made effective and such ordinances adopted under section~~
21 ~~405.1, subsection 1, Code 2011, shall be extended to apply~~
22 ~~the ordinances to the period of time ending ten years from~~
23 ~~the date of subdivision, and ordinances adopted under section~~
24 ~~405.1, subsection 2, Code 2011, shall be extended to apply the~~
25 ~~ordinances to the period of time ending eight years from the~~
26 ~~date of subdivision.~~

27 ~~2. On or after July 27, 2011, the board of supervisors~~
28 ~~of a county may amend an ordinance adopted or otherwise made~~
29 ~~effective under subsection 1 to extend the period of time~~
30 ~~established under subsection 1 to apply the ordinance to a~~
31 ~~period of time not to exceed five years beyond the end of the~~
32 ~~period of time established under subsection 1.~~ An extension
33 of an ordinance under this subsection may apply to all or
34 a portion of the property that was subject to the original
35 ordinance.

LSB 2238HC (2) 87

-1-

md/jh/sc

1/4

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 ~~3. A city council may adopt an ordinance affecting~~
2 ~~that portion of the applicable property located within the~~
3 ~~incorporated area of the city, effectuating an extension of~~
4 ~~a county ordinance otherwise eligible to be extended under~~
5 ~~subsection 2 and not previously extended by the board of~~
6 ~~supervisors. An ordinance by a city council providing for~~
7 ~~an extension under this subsection shall be subject to the~~
8 ~~limitations of subsection 2.~~

9 Sec. 2. Section 441.72, Code 2017, is amended to read as
10 follows:

11 **441.72 Assessment of platted lots.**

12 1. ~~Except as provided in subsection 2, when~~ When a
13 subdivision plat is recorded pursuant to [chapter 354](#), the
14 individual lots within the subdivision plat shall not be
15 assessed in excess of the total assessment of the land as
16 acreage or unimproved property ~~for five years after the~~
17 ~~recording of the plat or until the lot is actually improved~~
18 ~~with permanent construction, whichever occurs first.~~ When an
19 individual lot has been improved with permanent construction,
20 the lot shall be assessed for taxation purposes as provided in
21 [chapter 428](#) and [this chapter](#).

22 2. ~~For subdivision plats recorded pursuant to chapter~~
23 ~~354 on or after January 1, 2004, but before January 1, 2011,~~
24 ~~the individual lots within the subdivision plat shall not~~
25 ~~be assessed in excess of the total assessment of the land~~
26 ~~as acreage or unimproved property for eight years after the~~
27 ~~recording of the plat or until the lot is actually improved~~
28 ~~with permanent construction, whichever occurs first.~~ When an
29 individual lot has been improved with permanent construction,
30 the lot shall be assessed for taxation purposes as provided in
31 [chapter 428](#) and [this chapter](#).

32 ~~3.~~ 2. [This section](#) does not apply to special assessment
33 levies.

34 Sec. 3. IMPLEMENTATION.

35 1. This Act shall not be construed to require the refund

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 or modification of property taxes that are attributable to
2 assessment years beginning before January 1, 2018, or the
3 adjustment of property assessments for assessment years
4 beginning before January 1, 2018.

5 2. Ordinances adopted under section 405.1 in effect on the
6 effective date of this Act shall be invalid for purposes of
7 assessment years beginning on or after January 1, 2018.

8 Sec. 4. APPLICABILITY. This Act applies to assessment years
9 beginning on or after January 1, 2018.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill relates to the assessment of certain subdivided
14 real property.

15 Current Code section 405.1 authorizes a county board of
16 supervisors to adopt an ordinance providing that property
17 acquired and subdivided for development of housing shall
18 continue to be assessed for taxation in the manner that it was
19 prior to the acquisition for housing until the lot is sold for
20 construction or occupancy of housing or five years from the
21 date of subdivision, whichever is shorter. Code section 405.1
22 also authorizes time extensions of certain ordinances that
23 affect the assessment of property subdivided for development
24 of housing and authorizes the time extensions of certain
25 ordinances by counties and by cities in the portion of the
26 applicable area located in the incorporated area of the city.

27 The bill strikes the authorization for cities and counties
28 to adopt, amend, or extend such ordinances and provides that
29 property acquired and subdivided for development of housing
30 shall continue to be assessed for taxation and taxed in the
31 manner it was prior to its acquisition for housing until the
32 lot is sold for construction or occupancy of housing. Under
33 the bill, upon the sale, the property must be assessed for
34 taxation as residential, multiresidential, or commercial
35 multifamily property, whichever is applicable.

LSB 2238HC (2) 87

-3-

md/jh/sc

3/4

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 Code section 441.72 provides that a platted lot for which
2 a subdivision plat was recorded is assessed for property tax
3 purposes as acreage or unimproved property for five years or
4 until the lot is actually improved with permanent construction,
5 whichever occurs first. However, for subdivision plats
6 recorded on or after January 1, 2004, but before January 1,
7 2011, the time limit is eight years.

8 The bill strikes the portions of Code section 441.72
9 relating to the five-year limitation and the eight-year
10 limitation and provides that when a subdivision plat is
11 recorded, the individual lots within the subdivision plat shall
12 not be assessed in excess of the total assessment of the land
13 as acreage or unimproved property until the lot is actually
14 improved with permanent construction.

15 The bill shall not be construed to require the refund
16 or modification of property taxes that are attributable to
17 assessment years beginning before January 1, 2018, or the
18 adjustment of property assessments for assessment years
19 beginning before January 1, 2018. The bill also provides that
20 local ordinances adopted under existing Code section 405.1
21 in effect on the effective date of the bill are invalid for
22 purposes of assessment years beginning on or after January 1,
23 2018.

24 The bill applies to assessment years beginning on or after
25 January 1, 2018.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House Study Bill 104 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to disclosure of asbestos bankruptcy trust
2 claims in civil asbestos actions, asbestos and silica claims
3 prioritization, and successor corporation asbestos-related
4 liability, and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1990YC (4) 87
jh/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 Section 1. NEW SECTION. 686A.1 Title.

2 This chapter shall be known and may be cited as the "*Asbestos*
3 *Bankruptcy Trust Claims Transparency Act*".

4 Sec. 2. NEW SECTION. 686A.2 Definitions.

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

7 1. "*Asbestos*" means chrysotile, amosite, crocidolite,
8 tremolite asbestos, anthophyllite asbestos, actinolite
9 asbestos, asbestiform winchite, asbestiform richterite,
10 asbestiform amphibole minerals, and any of these minerals that
11 have been chemically treated or altered, including all minerals
12 defined as asbestos in 29 C.F.R. pt. 1910, at the time the
13 asbestos action is filed.

14 2. "*Asbestos action*" means a claim for damages or other
15 civil or equitable relief presented in a civil action arising
16 out of, based on, or related to the health effects of exposure
17 to asbestos, including loss of consortium, wrongful death,
18 mental or emotional injury, risk or fear of disease or other
19 injury, costs of medical monitoring or surveillance, and any
20 other derivative claim made by or on behalf of a person exposed
21 to asbestos or a representative, spouse, parent, child, or
22 other relative of that person.

23 3. "*Asbestos trust*" means a government-approved or
24 court-approved trust, qualified settlement fund, compensation
25 fund, or claims facility created as a result of an
26 administrative or legal action, a court-approved bankruptcy,
27 or pursuant to 11 U.S.C. §524(g) or 11 U.S.C. §1121(a) or
28 other applicable provision of law, that is intended to provide
29 compensation to claimants arising out of, based on, or related
30 to the health effects of exposure to asbestos.

31 4. "*Plaintiff*" means the person bringing an asbestos action,
32 including a personal representative if the asbestos action is
33 brought by an estate, or a conservator or next friend if the
34 asbestos action is brought on behalf of a minor or legally
35 incapacitated individual.

LSB 1990YC (4) 87

-1-

jh/nh

1/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 5. *“Trust claims materials”* means a final executed proof
2 of claim and all other documents and information related to a
3 claim against an asbestos trust, including claims forms and
4 supplementary materials, affidavits, depositions and trial
5 testimony, work history, and medical and health records,
6 documents reflecting the status of a claim against an asbestos
7 trust, and if the trust claim has settled, all documents
8 relating to the settlement of the trust claim.

9 6. *“Trust governance documents”* means all documents that
10 relate to eligibility and payment levels, including claims
11 payment matrices, trust distribution procedures, or plans for
12 reorganization, for an asbestos trust.

13 Sec. 3. NEW SECTION. **686A.3 Required disclosures by**
14 **plaintiff.**

15 1. Within thirty days after an asbestos action is filed,
16 or within thirty days after the effective date of this
17 Act, whichever is later, the plaintiff shall do all of the
18 following:

19 a. Provide the court and parties with a sworn statement
20 signed by the plaintiff and the plaintiff’s counsel, under
21 penalty of perjury, indicating that an investigation of all
22 asbestos trust claims has been conducted and that all asbestos
23 trust claims that may be made by the plaintiff or any person on
24 the plaintiff’s behalf have been filed. The sworn statement
25 must indicate whether there has been a request to defer, delay,
26 suspend, or toll any asbestos trust claim, and provide the
27 disposition of each asbestos trust claim.

28 b. Provide all parties with all trust claims materials,
29 including trust claims materials that relate to conditions
30 other than those that are the basis for the asbestos action
31 and including all trust claims materials from all attorneys
32 connected to the plaintiff in relation to exposure to asbestos,
33 including any attorney involved in the asbestos action, any
34 referring attorney, and any other attorney who has filed an
35 asbestos trust claim for the plaintiff or on the plaintiff’s

LSB 1990YC (4) 87

-2-

jh/nh

2/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 behalf.

2 *c.* If the plaintiff's asbestos trust claim is based on
3 exposure to asbestos through another individual, the plaintiff
4 shall produce all trust claims materials submitted by the
5 other individual to any asbestos trusts if the materials are
6 available to the plaintiff or the plaintiff's counsel.

7 2. The plaintiff shall supplement the information and
8 materials required under subsection 1 within thirty days after
9 the plaintiff or a person on the plaintiff's behalf supplements
10 an existing asbestos trust claim, receives additional
11 information or materials related to an asbestos trust claim, or
12 files an additional asbestos trust claim.

13 3. The court may dismiss the asbestos action if the
14 plaintiff fails to comply with this section.

15 4. An asbestos action shall not be set for trial until
16 at least one hundred eighty days after the requirements of
17 subsection 1 are met.

18 Sec. 4. NEW SECTION. **686A.4 Identification of additional or**
19 **alternative asbestos trusts by defendant.**

20 1. A defendant may file a motion requesting a stay of
21 the proceedings on or before the later of the sixtieth day
22 before the date trial in the action is set to commence or the
23 fifteenth day after the defendant first obtains information
24 that could support additional trust claims by the plaintiff.
25 The motion shall identify the asbestos trust claims the
26 defendant believes the plaintiff can file and include
27 information supporting the asbestos trust claims.

28 2. Within ten days of receiving the defendant's motion, the
29 plaintiff shall do one of the following:

30 *a.* File the asbestos trust claims.

31 *b.* File a written response with the court stating the reason
32 there is insufficient evidence for the plaintiff to file the
33 asbestos trust claims.

34 *c.* File a written response with the court requesting a
35 determination that the cost to file the asbestos trust claims

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 exceeds the plaintiff's reasonably anticipated recovery.

2 3. a. If the court determines that there is a sufficient
3 basis for the plaintiff to file an asbestos trust claim
4 identified in the motion to stay, the court shall stay the
5 asbestos action until the plaintiff files the asbestos trust
6 claim and produces all related trust claims materials.

7 b. If the court determines that the cost of submitting
8 an asbestos trust claim exceeds the plaintiff's reasonably
9 anticipated recovery, the court shall stay the asbestos action
10 until the plaintiff files with the court and provides all
11 parties with a verified statement of the plaintiff's history
12 of exposure, usage, or other connection to asbestos covered by
13 that asbestos trust.

14 4. An asbestos action shall not be set for trial until at
15 least sixty days after the plaintiff provides the documentation
16 required by this section.

17 Sec. 5. NEW SECTION. 686A.5 Discovery — use of materials.

18 1. Trust claims materials and trust governance documents
19 are presumed to be relevant and authentic, and are admissible
20 in evidence in an asbestos action. Notwithstanding any other
21 provision of law to the contrary, a claim of privilege does
22 not apply to any trust claims materials or trust governance
23 documents.

24 2. A defendant in an asbestos action may seek discovery
25 from an asbestos trust. Notwithstanding any other provision
26 of law to the contrary, the plaintiff may not claim privilege
27 or confidentiality to bar discovery and shall provide consent
28 or other expression of permission that may be required by the
29 asbestos trust to release information and materials sought by a
30 defendant.

31 3. Trust claim materials that are sufficient to entitle
32 a claim to consideration for payment under the applicable
33 trust governance documents may be sufficient to support a jury
34 finding that the plaintiff may have been exposed to products
35 for which the trust was established to provide compensation and

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 that, under applicable law, such exposure may be a substantial
2 contributing factor in causing the plaintiff's injury that is
3 at issue in the asbestos action.

4 Sec. 6. NEW SECTION. **686A.6 Trust record — valuation of**
5 **asbestos trust claims — judicial notice.**

6 1. Not less than thirty days before trial in an asbestos
7 action, the court shall enter into the record a document that
8 identifies every asbestos trust claim made by the plaintiff or
9 on the plaintiff's behalf.

10 2. If a plaintiff proceeds to trial in an asbestos
11 action before an asbestos trust claim is resolved, there is
12 a rebuttable presumption that the plaintiff is entitled to,
13 and will receive, the compensation specified in the trust
14 governance document applicable to the plaintiff's claim at the
15 time of trial. The court shall take judicial notice that the
16 trust governance document specifies compensation amounts and
17 payment percentages and shall establish an attributed value to
18 the plaintiff's asbestos trust claims.

19 Sec. 7. NEW SECTION. **686A.7 Setoff — credit.**

20 In any asbestos action in which damages are awarded and
21 setoffs are permitted under applicable law, a defendant is
22 entitled to a setoff or credit in the amount the plaintiff
23 has been awarded from an asbestos trust identified in
24 section 686A.6, subsection 1, and the amount of the valuation
25 established under section 686A.6, subsection 2. If multiple
26 defendants are found liable for damages, the court shall
27 distribute the amount of setoff or credit proportionally
28 between the defendants, according to the liability of each
29 defendant.

30 Sec. 8. NEW SECTION. **686A.8 Failure to provide information**
31 **— sanctions.**

32 1. On the motion of a defendant or judgment debtor seeking
33 sanctions or other relief in an asbestos action, the court
34 may impose any sanction provided by court rule or a law of
35 this state, including but not limited to vacating a judgment

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 rendered in the action, for a plaintiff's failure to comply
2 with the disclosure requirements of this chapter.

3 2. If the plaintiff or a person on the plaintiff's behalf
4 files an asbestos trust claim after the plaintiff obtains a
5 judgment in an asbestos action, and that asbestos trust was
6 in existence at the time the plaintiff obtained the judgment,
7 the trial court, on motion by a defendant or judgment debtor
8 seeking sanctions or other relief, has jurisdiction to reopen
9 the judgment in the asbestos action and adjust the judgment by
10 the amount of any subsequent asbestos trust payments obtained
11 by the plaintiff and order any other relief to the parties that
12 the court considers just and proper.

13 3. A defendant or judgment debtor shall file any motion
14 under this section within a reasonable time and not more than
15 one year after the judgment was entered.

16 Sec. 9. NEW SECTION. **686A.9 Application.**

17 1. This chapter applies to all asbestos actions filed on or
18 after the effective date of this Act.

19 2. This chapter applies to all pending asbestos actions in
20 which trial has not commenced as of the effective date of this
21 Act unless the court finds that the application of a provision
22 in this chapter would unconstitutionally affect a vested right.
23 In that case, the provision does not apply and the court shall
24 apply prior law.

25 Sec. 10. NEW SECTION. **686B.1 Title.**

26 This chapter shall be known and may be cited as the "*Asbestos*
27 *and Silica Claims Priorities Act*".

28 Sec. 11. NEW SECTION. **686B.2 Definitions.**

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

31 1. "*AMA guides*" means the American medical association's
32 guides to the evaluation of permanent impairment in effect at
33 the time of the performance of any examination or test on the
34 exposed person required under this chapter.

35 2. "*Asbestos*" means the same as defined in section 686A.2.

LSB 1990YC (4) 87

-6-

jh/nh

6/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 3. *"Asbestos action"* means the same as defined in section
2 686A.2.

3 4. *"Asbestosis"* means bilateral diffuse interstitial
4 fibrosis of the lungs caused by inhalation of asbestos fibers.

5 5. *"Board-certified in internal medicine"* means certified
6 by the American board of internal medicine or the American
7 osteopathic board of internal medicine at the time of the
8 performance of an examination and rendition of a report
9 required by this chapter.

10 6. *"Board-certified in occupational medicine"* means
11 certified in the specialty of occupational medicine by the
12 American board of preventive medicine or the specialty of
13 occupational/environmental medicine by the American osteopathic
14 board of preventive medicine at the time of the performance
15 of an examination and rendition of a report required by this
16 chapter.

17 7. *"Board-certified in pathology"* means holding primary
18 certification in anatomic pathology or clinical pathology from
19 the American board of pathology or the American osteopathic
20 board of pathology at the time of the performance of an
21 examination and rendition of a report required by this chapter,
22 and practicing principally in the field of pathology including
23 regular evaluation of pathology materials obtained from
24 surgical or postmortem specimens.

25 8. *"Board-certified in pulmonary medicine"* means certified in
26 the specialty of pulmonary medicine by the American board of
27 internal medicine or the American osteopathic board of internal
28 medicine at the time of the performance of an examination and
29 rendition of a report required by this chapter.

30 9. *"Certified B-reader"* means an individual who has
31 qualified as a national institute for occupational safety and
32 health final or B-reader of X rays under 42 C.F.R. §37.51(b),
33 whose certification was current at the time of any readings
34 required under this chapter, and whose B-reads comply with
35 the national institute for occupational safety and health

LSB 1990YC (4) 87

-7-

jh/nh

7/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 B-reader's code of ethics, issues in classification of chest
2 radiographs, and classification of chest radiographs in
3 contested proceedings.

4 10. "*Exposed person*" means a person whose exposure to
5 asbestos or silica or to asbestos-containing products or
6 silica-containing products is the basis for an asbestos action
7 or silica action.

8 11. "*FEV1*" means forced expiratory volume in the first
9 second, which is the maximal volume of air expelled in one
10 second during the performance of simple spirometric tests.

11 12. "*FEV1/FVC*" means the ratio between the actual values for
12 FEV1 over FVC.

13 13. "*FVC*" means forced vital capacity, which is the maximal
14 volume of air expired with maximum effort from a position of
15 full inspiration.

16 14. "*ILO system*" and "*ILO scale*" mean the radiological
17 ratings and system for the classification of chest X rays of
18 the international labour office provided in guidelines for
19 the use of ILO international classification of radiographs of
20 pneumoconioses in effect on the day any X rays of the exposed
21 person were reviewed by a certified B-reader.

22 15. "*Nonmalignant condition*" means any condition that can be
23 caused by asbestos or silica other than a diagnosed cancer.

24 16. "*Official statements of the American thoracic society*"
25 means lung function testing standards set forth in statements
26 from the American thoracic society, including standardizations
27 of spirometry, standardizations of lung volume testing,
28 standardizations of diffusion capacity testing or single-breath
29 determination of carbon monoxide uptake in the lung, and
30 interpretive strategies for lung function tests, which are in
31 effect on the day of the pulmonary function testing of the
32 exposed person.

33 17. "*Pathological evidence of asbestosis*" means a statement
34 by a physician who is board-certified in pathology that more
35 than one representative section of lung tissue uninvolved

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 with any other disease process demonstrates a pattern of
2 peribronchiolar or parenchymal scarring in the presence of
3 characteristic asbestos bodies graded 1(B) or higher under the
4 criteria published in asbestos-associated diseases, 106 Archive
5 of Pathology and Laboratory Medicine 11, appendix 3 (October
6 8, 1982), or grade one or higher in pathology of asbestosis,
7 134 Archive of Pathology and Laboratory Medicine 462-80 (March
8 2010) (tables 2 and 3), as amended at the time of the exam, and
9 there is no other more likely explanation for the presence of
10 the fibrosis.

11 18. *“Pathological evidence of silicosis”* means a statement by
12 a physician who is board-certified in pathology that more than
13 one representative section of lung tissue uninvolved with any
14 other disease process demonstrates complicated silicosis with
15 characteristic confluent silicotic nodules or lesions equal
16 to or greater than one centimeter and birefringent crystals
17 or other demonstration of crystal structures consistent with
18 silica, well-organized concentric whorls of collagen surrounded
19 by inflammatory cells, in the lung parenchyma and no other
20 more likely explanation for the presence of the fibrosis
21 exists, or acute silicosis with characteristic pulmonary edema,
22 interstitial inflammation, and the accumulation within the
23 alveoli of proteinaceous fluid rich in surfactant.

24 19. *“Plaintiff”* means the person bringing an asbestos action
25 or silica action, including a personal representative if the
26 asbestos action or silica action is brought by an estate, or
27 a conservator or next friend if the asbestos action or silica
28 action is brought on behalf of a minor or legally incapacitated
29 individual.

30 20. *“Predicted lower limit of normal”* means the test
31 value that is the calculated standard convention lying at
32 the fifth percentile, below the upper ninety-five percent of
33 the reference population, based on age, height, and gender,
34 according to the recommendations by the American thoracic
35 society and as referenced in the applicable AMA guides,

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 primarily national health and nutrition examination survey

2 predicted values, or as amended.

3 21. *"Pulmonary function test"* means spirometry, lung volume
4 testing, and diffusion capacity testing, including appropriate
5 measurements, quality control data, and graphs, performed in
6 accordance with the methods of calibration and techniques
7 provided in the applicable AMA guides and all standards
8 provided in the official statements of the American thoracic
9 society in effect on the day pulmonary function testing of the
10 exposed person was conducted.

11 22. *"Qualified physician"* means a physician who is
12 board-certified in internal medicine, board-certified
13 in pathology, board-certified in pulmonary medicine, or
14 board-certified in occupational medicine, as may be appropriate
15 to the actual diagnostic specialty in question, and for whom
16 all of the following are true:

17 a. The physician conducted a physical examination of
18 the exposed person and has taken a detailed occupational,
19 exposure, medical, smoking, and social history from the exposed
20 person, or if the exposed person is deceased, has reviewed the
21 pathology material and has taken a detailed history from the
22 person most knowledgeable about the information forming the
23 basis of the asbestos action or silica action.

24 b. The physician treated or is treating the exposed person,
25 and has or had a doctor-patient relationship with the exposed
26 person at the time of the physical examination, or in the case
27 of a physician who is board-certified in pathology, examined
28 tissue samples or pathological slides of the exposed person at
29 the request of the treating physician.

30 c. The physician spends no more than twenty-five percent of
31 the physician's professional practice time providing consulting
32 or expert services in actual or potential civil actions, and
33 whose medical group, professional corporation, clinic, or other
34 affiliated group earns not more than twenty-five percent of its
35 revenue providing such services.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 *d.* The physician was licensed to practice on the date any
2 examination or pulmonary function testing was conducted, and
3 actively practices or practiced in the state where the exposed
4 person resides or resided at the time of the examination or
5 pulmonary function testing, or the state where the asbestos
6 action or silica action was filed.

7 *e.* The physician received or is receiving payment for the
8 treatment of the exposed person from the exposed person, a
9 member of the exposed person's family, or the exposed person's
10 health care plan and not from the exposed person's attorney.

11 *f.* The physician prepared or directly supervised the
12 preparation and final review of any medical report under this
13 chapter.

14 *g.* The physician has not relied on any examinations, tests,
15 radiographs, reports, or opinions of any physician, clinic,
16 laboratory, or testing company that performed an examination,
17 test, radiograph, or screening of the exposed person in
18 violation of any law, regulation, licensing requirement, or
19 medical code of practice of the state in which the examination,
20 test, or screening was conducted, or that was conducted without
21 establishing a physician-patient relationship with the exposed
22 person or medical personnel involved in the examination, test,
23 or screening process, or that required the exposed person to
24 agree to retain the service of an attorney.

25 23. "*Radiological evidence of asbestosis*" means a quality 1
26 chest X ray under the ILO system, or a quality 2 chest X ray
27 in a death case when no pathology or quality 1 chest X ray is
28 available, showing bilateral small, irregular opacities (s, t,
29 or u) occurring primarily in the lower lung zones graded by a
30 certified B-reader as at least 1/1 on the ILO scale.

31 24. "*Radiological evidence of diffuse bilateral pleural*
32 *thickening*" means a quality 1 chest X ray under the ILO system,
33 or a quality 2 chest X ray in a death case when no pathology or
34 quality 1 chest X ray is available, showing diffuse bilateral
35 pleural thickening of at least b2 on the ILO scale and blunting

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 of at least one costophrenic angle as classified by a certified
2 B-reader.

3 25. *"Radiological evidence of silicosis"* means a quality
4 1 chest X ray under the ILO system, or a quality 2 chest X
5 ray in a death case when no pathology or quality 1 chest X
6 ray is available, showing bilateral predominantly nodular
7 or rounded opacities (p, q, or r) occurring primarily in
8 the upper lung fields graded by a certified B-reader as at
9 least 1/1 on the ILO scale or A, B, or C sized opacities
10 representing complicated silicosis or acute silicosis with
11 characteristic pulmonary edema, interstitial inflammation, and
12 the accumulation within the alveoli of proteinaceous fluid rich
13 in surfactant.

14 26. *"Silica"* means a respirable crystalline form of silicon
15 dioxide, including quartz, cristobalite, and tridymite.

16 27. *"Silica action"* means a claim for damages or other civil
17 or equitable relief presented in a civil action arising out
18 of, based on, or related to the health effects of exposure to
19 silica, including loss of consortium, wrongful death, mental
20 or emotional injury, risk or fear of disease or other injury,
21 costs of medical monitoring or surveillance, and any other
22 derivative claim made by or on behalf of a person exposed to
23 silica or a representative, spouse, parent, child, or other
24 relative of that person.

25 28. *"Silicosis"* means simple silicosis, acute silicosis,
26 accelerated silicosis, or chronic silicosis caused by the
27 inhalation of respirable silica.

28 29. *"Supporting test results"* means copies of the B-reading;
29 pulmonary function tests, including printouts of the flow
30 volume loops, volume time curves, diffusing capacity of the
31 lung for carbon monoxide graphs, lung volume tests and graphs,
32 quality control data and other pertinent data for all trials
33 and all other elements required to demonstrate compliance with
34 the equipment, quality, interpretation, and reporting standards
35 set forth in this chapter; B-reader reports; reports of X

LSB 1990YC (4) 87

-12-

jh/nh

12/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 ray examinations; diagnostic imaging of the chest; pathology
2 reports; and all other tests reviewed by the diagnosing
3 physician or a qualified physician in reaching the physician's
4 conclusions.

5 Sec. 12. NEW SECTION. **686B.3 Filing claims — establishment**
6 **of prima facie case — individual actions to be filed.**

7 1. A plaintiff in an asbestos action involving a
8 nonmalignant condition or a silica action involving silicosis
9 shall file with the complaint or other initial pleading a
10 detailed narrative medical report and diagnosis, signed under
11 oath by a qualified physician and accompanied by supporting
12 test results, which constitute prima facie evidence that the
13 exposed person meets the requirements of this chapter. The
14 report shall not be prepared by an attorney or person working
15 for or on behalf of an attorney.

16 2. A plaintiff shall include with the detailed narrative
17 medical report a sworn information form containing all of the
18 following:

19 *a.* The name, address, date of birth, social security
20 number, marital status, occupation, and employer of the exposed
21 person, and any person through whom the exposed person alleges
22 exposure.

23 *b.* The plaintiff's relationship to the exposed person or
24 person through whom the exposure is alleged.

25 *c.* The specific location and manner of each alleged
26 exposure, including the specific location and manner of
27 exposure for any person through whom the exposed person alleges
28 exposure.

29 *d.* The beginning and ending dates of each alleged exposure.

30 *e.* The identity of the manufacturer of the specific asbestos
31 or silica product for each exposure.

32 *f.* The identity of the defendant or defendants against whom
33 the plaintiff asserts a claim.

34 *g.* The specific asbestos-related or silica-related disease
35 claimed to exist.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 *h.* Any supporting documentation relating to the information
2 required under this subsection.

3 3. For an asbestos action or silica action pending as of
4 the effective date of this Act, the detailed narrative medical
5 report and supporting test results and sworn information form
6 described in subsections 1 and 2 shall be provided to all
7 parties not later than ninety days after the effective date of
8 this Act or not later than ninety days before trial, whichever
9 is earlier.

10 4. A defendant shall be afforded a reasonable opportunity
11 to challenge the adequacy of the prima facie evidence before
12 trial.

13 5. The court shall dismiss the asbestos action or silica
14 action without prejudice on finding that the plaintiff has
15 failed to make the prima facie showing required by this chapter
16 or failed to comply with the requirements of this section.

17 6. An asbestos action or silica action must be individually
18 filed and shall not be filed on behalf of a group or class of
19 plaintiffs.

20 Sec. 13. NEW SECTION. **686B.4 Asbestos claims involving**
21 **nonmalignant conditions — elements of proof.**

22 An asbestos action involving a nonmalignant condition shall
23 not be brought or maintained in the absence of prima facie
24 evidence that the exposed person has a physical impairment for
25 which asbestos exposure was a substantial contributing factor.
26 The prima facie showing shall be made as to each defendant
27 and include a detailed narrative medical report and diagnosis
28 signed under oath by a qualified physician that includes all
29 of the following:

30 1. Radiological or pathological evidence of asbestosis or
31 radiological evidence of diffuse bilateral pleural thickening
32 or a high-resolution computed tomography scan showing evidence
33 of asbestosis or diffuse bilateral pleural thickening.

34 2. A detailed occupational and exposure history from
35 the exposed person or, if that person is deceased, from the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 person most knowledgeable about the exposures that form the
2 basis of the action, including identification of all of the
3 exposed person's principal places of employment and exposures
4 to airborne contaminants and whether each place of employment
5 involved exposures to airborne contaminants, including asbestos
6 fibers or other disease-causing dusts or fumes, that may cause
7 pulmonary impairment and the nature, duration, and level of any
8 exposure.

9 3. A detailed medical, social, and smoking history from the
10 exposed person or, if that person is deceased, from the person
11 most knowledgeable, including a thorough review of the past and
12 present medical problems of the exposed person and the most
13 probable cause of such medical problems.

14 4. Evidence verifying that at least fifteen years have
15 elapsed between the exposed person's date of first exposure to
16 asbestos and the date of diagnosis.

17 5. Evidence based upon a personal medical examination
18 and pulmonary function testing of the exposed person or,
19 if the exposed person is deceased, based upon the person's
20 medical records, that the exposed person has or the deceased
21 person had a permanent respiratory impairment rating of at
22 least class 2 as defined by and evaluated pursuant to the
23 AMA guides or reported significant changes year to year in
24 lung function for FVC, FEV1, or diffusing capacity of the
25 lung for carbon monoxide as defined by the American thoracic
26 society's interpretative strategies for lung function tests, 26
27 European Respiratory Journal 948-68, 961-62, table 12 (2005),
28 as updated.

29 6. Evidence that asbestosis or diffuse bilateral pleural
30 thickening, rather than chronic obstructive pulmonary disease,
31 is a substantial contributing factor to the exposed person's
32 physical impairment, based on a determination that the exposed
33 person has any of the following:

34 a. FVC below the predicted lower limit of normal and
35 FEV1/FVC ratio, using actual values, at or above the predicted

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 lower limit of normal.

2 *b.* Total lung capacity, by plethysmography or timed gas
3 dilution, below the predicted lower limit of normal.

4 *c.* A chest X ray showing bilateral small, irregular
5 opacities (s, t, or u) graded by a certified B-reader as at
6 least 2/1 on the ILO scale.

7 7. The qualified physician signing the detailed narrative
8 medical report has concluded that exposure to asbestos was
9 a substantial contributing factor to the exposed person's
10 physical impairment and not more probably the result of other
11 causes. An opinion that the medical findings and impairment
12 are consistent with or compatible with exposure to asbestos,
13 or similar opinion, does not satisfy the requirements of this
14 subsection.

15 **Sec. 14. NEW SECTION. 686B.5 Silica claims involving**
16 **silicosis — elements of proof.**

17 A silica action involving silicosis shall not be brought
18 or maintained in the absence of prima facie evidence that the
19 exposed person has a physical impairment for which exposure
20 to silica was a substantial contributing factor. The prima
21 facie showing shall be made as to each defendant and include
22 a detailed narrative medical report and diagnosis signed
23 under oath by a qualified physician that includes all of the
24 following:

25 1. Radiological or pathological evidence of silicosis or a
26 high-resolution computed tomography scan showing evidence of
27 silicosis.

28 2. A detailed occupational and exposure history from the
29 exposed person or, if that person is deceased, from the person
30 most knowledgeable about the exposures that form the basis of
31 the action, including identification of all principal places
32 of employment and exposures to airborne contaminants and
33 whether each place of employment involved exposures to airborne
34 contaminants, including silica or other disease-causing dusts
35 or fumes, that may cause pulmonary impairment and the nature,

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 duration, and level of any exposure.

2 3. A detailed medical, social, and smoking history from the
3 exposed person or, if that person is deceased, from the person
4 most knowledgeable, including a thorough review of the past and
5 present medical problems of the exposed person and the most
6 probable cause of such medical problems.

7 4. Evidence that a sufficient latency period has elapsed
8 between the exposed person's date of first exposure to silica
9 and the day of diagnosis.

10 5. Evidence based upon a personal medical examination
11 and pulmonary function testing of the exposed person or,
12 if the exposed person is deceased, based upon the person's
13 medical records, that the exposed person has or the deceased
14 person had a permanent respiratory impairment rating of at
15 least class 2 as defined by and evaluated pursuant to the
16 AMA guides or reported significant changes year to year in
17 lung function for FVC, FEV1, or diffusing capacity of the
18 lung for carbon monoxide as defined by the American thoracic
19 society's interpretative strategies for lung function tests, 26
20 European Respiratory Journal 948-68, 961-62, table 12 (2005),
21 as updated.

22 6. The qualified physician signing the detailed narrative
23 medical report has concluded that exposure to silica was
24 a substantial contributing factor to the exposed person's
25 physical impairment and not more probably the result of other
26 causes. An opinion stating that the medical findings and
27 impairment are consistent with or compatible with exposure to
28 silica, or similar opinion, does not satisfy the requirements
29 of this subsection.

30 **Sec. 15. NEW SECTION. 686B.6 Evidence of physical**
31 **impairment.**

32 Evidence relating to physical impairment, including
33 pulmonary function testing and diffusing studies, offered in
34 an action governed by this chapter, must satisfy all of the
35 following requirements:

LSB 1990YC (4) 87

-17-

jh/nh

17/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 1. The evidence must comply with the quality controls,
2 equipment requirements, methods of calibration, and techniques
3 set forth in the AMA guides and all standards set forth in the
4 official statements of the American thoracic society which are
5 in effect on the date of any examination or pulmonary function
6 testing of the exposed person required by this chapter.

7 2. The evidence must not be obtained by or based on testing
8 or examinations that violate any law, regulation, licensing
9 requirement, or medical code of practice of the state in which
10 the examination, test, or screening was conducted, or of this
11 state.

12 3. The evidence must not be obtained under the condition
13 that the plaintiff or exposed person retains the legal services
14 of the attorney sponsoring the examination, test, or screening.

15 Sec. 16. NEW SECTION. **686B.7 Procedures — limitation.**

16 1. Evidence relating to the prima facie showings required
17 under this chapter shall not create any presumption that the
18 exposed person has an asbestos-related or silica-related injury
19 or impairment, and shall not be conclusive as to the liability
20 of any defendant.

21 2. No evidence shall be offered at trial, and the jury shall
22 not be informed, of any of the following:

23 *a.* The grant or denial of a motion to dismiss an asbestos
24 action or silica action under the provisions of this chapter.

25 *b.* The provisions of this chapter with respect to what
26 constitutes a prima facie showing of asbestos-related
27 impairment or silica-related impairment.

28 3. Until a court enters an order determining that the
29 exposed person has established prima facie evidence of
30 impairment, an asbestos action or silica action shall not be
31 subject to discovery, except discovery related to establishing
32 or challenging the prima facie evidence or by order of the
33 trial court upon motion of one of the parties and for good
34 cause shown.

35 4. *a.* A court may consolidate for trial any number and

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 type of asbestos actions or silica actions with the consent of
2 all the parties. In the absence of such consent, the court may
3 consolidate for trial only asbestos actions or silica actions
4 relating to the exposed person and members of that person's
5 household.

6 *b.* This subsection does not preclude the consolidation of
7 cases by court order for pretrial or discovery purposes.

8 5. A defendant in an asbestos action or silica action shall
9 not be liable for exposures from a product or component part
10 made or sold by a third party.

11 Sec. 17. NEW SECTION. **686B.8 Statute of limitations —**
12 **two-disease rule.**

13 1. With respect to an asbestos action or silica action not
14 barred by limitations as of the effective date of this Act, an
15 exposed person's cause of action shall not accrue, nor shall
16 the running of limitations commence, prior to the earliest of
17 the following:

18 *a.* The exposed person received a medical diagnosis of an
19 asbestos-related impairment or silica-related impairment.

20 *b.* The exposed person discovered facts that would have
21 led a reasonable person to obtain a medical diagnosis with
22 respect to the existence of an asbestos-related impairment or
23 silica-related impairment.

24 *c.* The date of death of the exposed person having an
25 asbestos-related impairment or silica-related impairment.

26 2. This section shall not be construed to revive or extend
27 limitations with respect to any claim for asbestos-related
28 impairment or silica-related impairment that was otherwise
29 time-barred as of the effective date of this Act.

30 3. An asbestos action or silica action arising out of a
31 nonmalignant condition shall be a distinct cause of action from
32 an action for an asbestos-related cancer or silica-related
33 cancer. Where otherwise permitted under state law, no damages
34 shall be awarded for fear or increased risk of future disease
35 in an asbestos action or silica action.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 Sec. 18. NEW SECTION. **686B.9 Application.**

2 1. This chapter applies to all asbestos actions and silica
3 actions filed on or after the effective date of this Act.

4 2. This chapter applies to all pending asbestos actions
5 and silica actions in which trial has not commenced as
6 of the effective date of this Act unless the court finds
7 that the application of a provision in this chapter would
8 unconstitutionally affect a vested right. In that case, the
9 provision does not apply and the court shall apply prior law.

10 Sec. 19. NEW SECTION. **686C.1 Title.**

11 This chapter shall be known and may be cited as the
12 *“Successor Corporation Asbestos-Related Liability Fairness Act”*.

13 Sec. 20. NEW SECTION. **686C.2 Definitions.**

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

16 1. *“Asbestos action”* means the same as defined in section
17 686A.2, but also includes any claim for damage or loss caused
18 by the installation, presence, or removal of asbestos.

19 2. *“Corporation”* means any corporation established under
20 either domestic or foreign charter and includes a corporate
21 subsidiary and any business entity in which a corporation
22 participates or is a stockholder, a partner, or a joint
23 venture.

24 3. *“Successor”* means a corporation that assumes or incurs or
25 has assumed or incurred successor asbestos-related liabilities
26 through operation of law, including but not limited to a
27 merger or consolidation or plan of merger or consolidation
28 related to such consolidation or merger or by appointment as
29 an administrator or as a trustee in bankruptcy, debtor in
30 possession, liquidation, or receivership and that became a
31 successor before January 1, 1972. *“Successor”* includes any of
32 that successor corporation’s successors.

33 4. *“Successor asbestos-related liability”* means any
34 liabilities, whether known or unknown, asserted or unasserted,
35 absolute or contingent, accrued or unaccrued, liquidated or

LSB 1990YC (4) 87

-20-

jh/nh

20/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 unliquidated, or due or to become due, which are related in
2 any way to an asbestos action and were assumed or incurred by
3 a corporation as a result of or in connection with a merger
4 or consolidation, or the plan of merger or consolidation
5 related to the merger or consolidation with or into another
6 corporation, or that are related in any way to an asbestos
7 action based on the exercise of control or the ownership of
8 stock of the corporation before the merger or consolidation.
9 *“Successor asbestos-related liability”* includes liabilities
10 that, after the time of the merger or consolidation for which
11 the fair market value of total gross assets is determined under
12 section 686C.4, were or are paid or otherwise discharged, or
13 committed to be paid or otherwise discharged, by or on behalf
14 of the corporation, or by a successor of the corporation, or by
15 or on behalf of a transferor, in connection with settlements,
16 judgments, or other discharges in this state or another
17 jurisdiction.

18 5. *“Transferor”* means a corporation from which successor
19 asbestos-related liabilities are or were assumed or incurred.

20 Sec. 21. **NEW SECTION. 686C.3 Limitations on successor**
21 **asbestos-related liabilities.**

22 1. Except as provided in subsection 2, the cumulative
23 successor asbestos-related liabilities of a successor are
24 limited to the fair market value of the total gross assets
25 of the transferor determined as of the time of the merger
26 or consolidation. A successor shall not have responsibility
27 for successor asbestos-related liabilities in excess of this
28 limitation.

29 2. If the transferor had assumed or incurred successor
30 asbestos-related liabilities in connection with a prior
31 merger or consolidation with a prior transferor, then the
32 fair market value of the total gross assets of the prior
33 transferor determined as of the time of the earlier merger or
34 consolidation shall be substituted for the limitation set forth
35 in subsection 1 for purposes of determining the limitation of

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 liability of a successor.

2 3. The limitations in this section shall apply to any
3 successor but shall not apply to any of the following:

4 a. Workers' compensation benefits paid by or on behalf of
5 an employer to an employee under the provisions of chapter 85
6 or 85A, or a comparable workers' compensation law of another
7 jurisdiction.

8 b. Any claim against a corporation that does not constitute
9 a successor asbestos-related liability.

10 c. Any obligation under the federal National Labor
11 Relations Act, 29 U.S.C. §151 et seq., as amended, or under any
12 collective bargaining agreement.

13 d. A successor that, after a merger or consolidation,
14 continued in the business of mining asbestos or in the
15 business of selling or distributing asbestos fibers or
16 in the business of manufacturing, distributing, removing,
17 or installing asbestos-containing products which were the
18 same or substantially the same as those products previously
19 manufactured, distributed, removed, or installed by the
20 transferor.

21 Sec. 22. NEW SECTION. **686C.4 Establishing fair market value**
22 **of total gross assets.**

23 1. A successor may establish the fair market value of
24 total gross assets, which include intangible assets, for the
25 purpose of the limitations under section 686C.3, through any
26 method reasonable under the circumstances, including any of the
27 following:

28 a. By reference to the going concern value of the assets or
29 to the purchase price attributable to or paid for the assets
30 in an arms-length transaction.

31 b. In the absence of other readily available information
32 from which the fair market value can be determined, by
33 reference to the value of the assets recorded on a balance
34 sheet.

35 2. To the extent total gross assets include any liability

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 insurance that was issued to the transferor whose assets are
2 being valued for purposes of this section, the applicability,
3 terms, conditions, and limits of such insurance shall not be
4 affected by this chapter, nor shall this chapter otherwise
5 affect the rights and obligations of an insurer, transferor,
6 or successor under any insurance contract or any related
7 agreement, including, without limitation, preenactment
8 settlements resolving coverage-related disputes, and the rights
9 of an insurer to seek payment for applicable deductibles,
10 retrospective premiums, or self-insured retentions or to seek
11 contribution from a successor for uninsured or self-insured
12 periods or periods where insurance is uncollectible or
13 otherwise unavailable. Without limiting the foregoing, to the
14 extent total gross assets include any such liability insurance,
15 a settlement of a dispute concerning any such liability
16 insurance coverage entered into by a transferor or successor
17 with the insurers of the transferor before the effective date
18 of this Act shall be determinative of the total coverage of
19 such liability insurance to be included in the calculation of
20 the transferor's total gross assets.

21 Sec. 23. NEW SECTION. **686C.5 Adjustment.**

22 1. Except as provided in subsections 2, 3, and 4, the fair
23 market value of total gross assets at the time of a merger or
24 consolidation shall increase annually at a rate equal to the
25 sum of the prime rate as listed in the first edition of the
26 Wall street journal published for each calendar year since the
27 merger or consolidation, unless the prime rate is not published
28 in that edition of the Wall street journal, in which case any
29 reasonable determination of the prime rate on the first day of
30 the year may be used, plus one percent.

31 2. The rate determined under subsection 1 shall not be
32 compounded.

33 3. The adjustment of the fair market value of total
34 gross assets shall continue as provided in subsection 1
35 until the date the adjusted value is first exceeded by the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 cumulative amounts of successor asbestos-related liabilities
2 paid or committed to be paid by or on behalf of the successor
3 corporation or a predecessor or by or on behalf of a transferor
4 after the time of the merger or consolidation for which the
5 fair market value of total gross assets is determined.

6 4. No adjustment of the fair market value of total gross
7 assets shall be applied to any liability insurance that may be
8 included in the total gross assets pursuant to section 686C.4,
9 subsection 2.

10 Sec. 24. NEW SECTION. 686C.6 Scope of chapter —
11 application.

12 1. This chapter shall be liberally construed with regard to
13 successors.

14 2. This chapter applies to all asbestos claims filed against
15 a successor on or after the effective date of this Act.

16 3. This chapter applies to all pending asbestos actions in
17 which trial has not commenced as of the effective date of this
18 Act unless the court finds that the application of a provision
19 in this chapter would unconstitutionally affect a vested right.
20 In that case, the provision does not apply and the court shall
21 apply prior law.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill relates to disclosure of asbestos bankruptcy trust
26 claims in civil asbestos actions, asbestos and silica claims
27 prioritization, and successor corporation asbestos-related
28 liability, and includes applicability provisions.

29 ASBESTOS BANKRUPTCY TRUST CLAIMS. The bill enacts new
30 Code chapter 686A, which requires a plaintiff in an asbestos
31 action to disclose documents and information related to claims
32 against an asbestos trust to a defendant within the later of 30
33 days of filing an asbestos action or 30 days of the effective
34 date of the bill. If the plaintiff fails to comply with these
35 requirements, the court may dismiss the action.

LSB 1990YC (4) 87

-24-

jh/nh

24/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 The bill provides that a defendant may file a motion
2 requesting a stay of the proceedings on or before the later
3 of the 60th day before the date trial in the action is set to
4 commence or the 15th day after the defendant first obtains
5 information that could support additional trust claims by the
6 plaintiff. The motion shall identify the asbestos trust claims
7 the defendant believes the plaintiff can file and include
8 information supporting the asbestos trust claims.

9 The bill provides that trust claims materials and trust
10 governance documents are presumed to be relevant and authentic,
11 and are admissible in evidence in an asbestos action. A claim
12 of privilege does not apply to any trust claims materials or
13 trust governance documents. The bill provides that trust
14 claim materials that are sufficient to entitle a claim to
15 consideration for payment under the applicable trust governance
16 documents may be sufficient to support a jury finding that
17 the plaintiff may have been exposed to products for which the
18 trust was established to provide compensation and that, under
19 applicable law, such exposure may be a substantial contributing
20 factor in causing the plaintiff's injury that is at issue in
21 the asbestos action.

22 If a plaintiff proceeds to trial in an asbestos action before
23 an asbestos trust claim is resolved, there is a rebuttable
24 presumption that the plaintiff is entitled to, and will
25 receive, the compensation specified in the trust governance
26 document applicable to the plaintiff's claim at the time of
27 trial.

28 In any asbestos action in which damages are awarded and
29 setoffs are permitted, a defendant is entitled to a setoff or
30 credit in the amount the plaintiff has been awarded from an
31 asbestos trust.

32 The bill provides that if the plaintiff or a person on
33 the plaintiff's behalf files an asbestos trust claim after
34 the plaintiff obtains a judgment in an asbestos action,
35 and that asbestos trust was in existence at the time the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 plaintiff obtained the judgment, the trial court, on motion
2 by a defendant or judgment debtor seeking sanctions or other
3 relief, has jurisdiction to reopen the judgment and adjust
4 the judgment by the amount of any subsequent asbestos trust
5 payments obtained by the plaintiff and order any other relief
6 to the parties that the court considers just and proper.

7 The bill applies to all asbestos actions filed on or after
8 the effective date of the bill, and to all pending asbestos
9 actions in which trial has not commenced as of the effective
10 date of the bill unless the court finds that the application
11 of a provision of the bill would unconstitutionally affect a
12 vested right. In that case, the provision does not apply and
13 the court shall apply prior law.

14 ASBESTOS AND SILICA CLAIMS PRIORITIZATION. The bill enacts
15 new Code chapter 686B, which provides that a plaintiff in an
16 asbestos action involving a nonmalignant condition or a silica
17 action involving silicosis shall file with the complaint or
18 other initial pleading a detailed narrative medical report
19 and diagnosis, signed under oath by a qualified physician and
20 accompanied by supporting test results, which constitute prima
21 facie evidence that the exposed person meets the requirements
22 of the bill. The report must not be prepared by an attorney.
23 For an asbestos or silica action pending as of the effective
24 date of the bill, the detailed narrative medical report and
25 supporting test results and sworn information shall be provided
26 to all parties not later than 90 days after the effective date
27 of the bill or not later than 90 days before trial, whichever
28 is earlier. The court shall dismiss the asbestos or silica
29 action without prejudice on finding that the plaintiff has
30 failed to make the prima facie showing required by the bill or
31 failed to comply with the requirements of the bill. The bill
32 provides that asbestos and silica actions must be individually
33 filed and may not be filed on behalf of a group or class of
34 plaintiffs.

35 The bill provides that an asbestos action involving a

LSB 1990YC (4) 87

-26-

jh/nh

26/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 nonmalignant condition or a silica action involving silicosis
2 shall not be brought or maintained in the absence of prima
3 facie evidence that the exposed person has a physical
4 impairment for which exposure to asbestos or silica was a
5 substantial contributing factor. The prima facie showing shall
6 be made as to each defendant and include a detailed narrative
7 medical report and diagnosis signed under oath by a qualified
8 physician that includes certain specified information. The
9 bill requires the qualified physician signing the detailed
10 narrative medical report to conclude that exposure to asbestos
11 or silica was a substantial contributing factor to the exposed
12 person's physical impairment and not more probably the result
13 of other causes. An opinion that the medical findings and
14 impairment are consistent with or compatible with exposure to
15 asbestos or silica does not satisfy the requirements of the
16 bill.

17 The bill provides that evidence relating to the prima
18 facie showings required under the bill shall not create any
19 presumption that the exposed person has an asbestos-related
20 or silica-related injury or impairment, and shall not be
21 conclusive as to the liability of any defendant. Until a
22 court enters an order determining that the exposed person has
23 established prima facie evidence of impairment, no asbestos or
24 silica action shall be subject to discovery, except discovery
25 related to establishing or challenging the prima facie evidence
26 or by order of the trial court upon motion of one of the parties
27 and for good cause shown.

28 An asbestos or silica action arising out of a nonmalignant
29 condition shall be a distinct cause of action from an action
30 for an asbestos-related or silica-related cancer.

31 The bill applies to all asbestos and silica actions
32 filed on or after the effective date of the bill, and to all
33 pending asbestos and silica actions in which trial has not
34 commenced as of the effective date of the bill unless the court
35 finds that the application of a provision in the bill would

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 unconstitutionally affect a vested right. In that case, the

2 provision does not apply and the court shall apply prior law.

3 SUCCESSOR CORPORATION ASBESTOS-RELATED LIABILITY. The

4 bill enacts new Code chapter 686C, which limits liability

5 related to asbestos actions which were assumed or incurred by a

6 corporation as the result of a merger or consolidation. The

7 bill provides that the cumulative successor asbestos-related

8 liabilities of a successor corporation are limited to the

9 fair market value of the total gross assets of the transferor

10 determined as of the time of the merger or consolidation.

11 The fair market value of the total gross assets may be

12 determined by any method reasonable under the circumstances,

13 including by reference to the going concern value of the assets

14 or to the purchase price attributable to or paid for the assets

15 in an arms-length transaction, or, in the absence of other

16 readily available information from which the fair market value

17 can be determined, by reference to the value of the assets

18 recorded on a balance sheet.

19 The bill provides that the fair market value of total gross

20 assets shall increase annually at a rate equal to the sum of

21 the prime rate plus 1 percent.

22 The bill is to be liberally construed with regard to

23 successor corporations.

24 The bill applies to all asbestos and silica actions

25 filed on or after the effective date of the bill, and to all

26 pending asbestos and silica actions in which trial has not

27 commenced as of the effective date of the bill unless the court

28 finds that the application of a provision in the bill would

29 unconstitutionally affect a vested right. In that case, the

30 provision does not apply and the court shall apply prior law.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House Study Bill 105 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to medical malpractice claims, including
2 noneconomic damage awards, contingency fees, expert
3 witnesses, and defenses.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1987YC (4) 87
jh/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 Section 1. Section 135P.1, subsection 2, Code 2017, is
2 amended to read as follows:

3 2. *“Health care provider”* means a physician or osteopathic
4 physician licensed under chapter 148, a physician assistant
5 licensed under and practicing under a supervising physician
6 pursuant to chapter 148C, a podiatrist licensed under chapter
7 149, ~~or a chiropractor licensed under chapter 151, a licensed~~
8 ~~practical nurse, a registered nurse, or an advanced registered~~
9 ~~nurse practitioner licensed pursuant to under chapter 152 or~~
10 ~~152E, a dentist licensed under chapter 153, an optometrist~~
11 ~~licensed under chapter 154, a pharmacist licensed under chapter~~
12 ~~155A, or any other person who is licensed, certified, or~~
13 ~~otherwise authorized or permitted by the law of this state to~~
14 ~~administer health care in the ordinary course of business or in~~
15 ~~the practice of a profession.~~

16 Sec. 2. **NEW SECTION. 147.136A Noneconomic damage awards**
17 **against health care providers.**

18 1. For purposes of this section:

19 a. *“Health care provider”* means a physician or an
20 osteopathic physician licensed under chapter 148, a
21 chiropractor licensed under chapter 151, a podiatrist
22 licensed under chapter 149, a physician assistant licensed and
23 practicing under a supervising physician under chapter 148C, a
24 licensed practical nurse, a registered nurse, or an advanced
25 registered nurse practitioner licensed under chapter 152 or
26 152E, a dentist licensed under chapter 153, an optometrist
27 licensed under chapter 154, a pharmacist licensed under chapter
28 155A, a hospital as defined in section 135B.1, or a health care
29 facility as defined in section 135C.1.

30 b. *“Health care services”* means medical diagnosis,
31 treatment, evaluation, advice, or acts that are permitted under
32 chapter 148, 148C, 149, 152, 152E, 153, 154, or 155A, or any
33 other health care licensing statutes of this state.

34 c. *“Noneconomic damages”* means damages arising from
35 pain, suffering, inconvenience, physical impairment, mental

LSB 1987YC (4) 87

-1-

jh/nh

1/11

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 anguish, emotional pain and suffering, loss of chance, loss of
2 consortium, or any other nonpecuniary damages.

3 2. The total amount of noneconomic damages recoverable from
4 all defendants in all civil actions, whether in tort, contract,
5 or otherwise and including derivate actions, that arise out of
6 an act or omission in connection with the provision of health
7 care services shall not exceed two hundred fifty thousand
8 dollars.

9 3. The limitation on damages contained in this section
10 shall not apply as to a defendant if that defendant's actions
11 constituted actual malice.

12 Sec. 3. Section 147.138, Code 2017, is amended to read as
13 follows:

14 **147.138 Contingent fee of attorney reviewed by court.**

15 1. In any action for personal injury or wrongful death
16 against any physician and surgeon, osteopathic physician
17 and surgeon, dentist, podiatric physician, optometrist,
18 pharmacist, chiropractor or nurse licensed under this chapter
19 or against any hospital licensed under [chapter 135B](#) a health
20 care provider, as defined in section 147.136A, based upon the
21 alleged negligence of the licensee health care provider in the
22 practice of that profession or occupation or in patient care,
23 or upon the alleged negligence of the hospital in patient care,
24 the court shall determine the reasonableness of any contingent
25 fee arrangement between the plaintiff and the plaintiff's
26 attorney, which, subject to subsection 2, shall not exceed
27 thirty-five percent of the total settlement or award.

28 2. Upon petition by the plaintiff or the plaintiff's
29 attorney, the court may permit an attorney fee in an amount
30 greater than the amount allowed under subsection 1 if the court
31 determines that the additional amount is fair and reasonable.

32 Sec. 4. Section 147.139, Code 2017, is amended to read as
33 follows:

34 **147.139 Expert witness standards.**

35 1. If the standard of care given by a ~~physician and surgeon~~

LSB 1987YC (4) 87

-2-

jh/nh

2/11

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 ~~or an osteopathic physician and surgeon licensed pursuant~~
2 ~~to [chapter 148](#), or a dentist licensed pursuant to chapter~~
3 ~~153 health care provider, as defined in section 147.136A,~~
4 ~~is at issue, the court shall only allow a person to qualify~~
5 ~~as an expert witness and to testify on the issue of the~~
6 ~~appropriate standard of care if the person's medical or dental~~
7 ~~qualifications relate directly to the medical problem or~~
8 ~~problems at issue and the type of treatment administered in the~~
9 ~~case., breach of the standard of care, or proximate cause if~~
10 all of the following are true:

11 a. The person is licensed to practice in the same field as
12 the defendant, is in good standing in each state of licensure,
13 and in the five years preceding the act or omission alleged to
14 be negligent, has not had a license in any state revoked or
15 suspended.

16 b. In the five years preceding the act or omission alleged
17 to be negligent, the person actively practiced in the same
18 field as the defendant or was a qualified instructor at an
19 accredited university in the same field as the defendant.

20 c. The person practiced or provided university instruction
21 in the same or substantially similar specialty as the
22 defendant.

23 d. The person is trained and experienced in the same
24 discipline or school of practice as the defendant or has
25 specialty expertise in the disease process or procedure
26 performed in the case.

27 e. If the defendant is board-certified in a specialty, the
28 person is certified in the same specialty by a board recognized
29 by the American board of medical specialties or the American
30 osteopathic association.

31 2. A person not licensed in this state but licensed in
32 another state who testifies on the issue of the appropriate
33 standard of care, breach of the standard of care, or proximate
34 cause as an expert witness shall be deemed to hold a temporary
35 license to practice in this state solely for the purpose of

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 and while providing such testimony and shall be subject to
2 the authority of the applicable licensing board in this state
3 including but not limited to the provisions of section 147.55.

4 Sec. 5. NEW SECTION. 147.140 Expert witness — certificate
5 of merit affidavit.

6 1. *a.* In any action for personal injury or wrongful
7 death against a health care provider based upon the alleged
8 negligence in the practice of that profession or occupation or
9 in patient care, including a cause of action for which expert
10 testimony is necessary to establish a prima facie case, the
11 plaintiff shall, within ninety days of the defendant's answer,
12 serve upon the defendant a certificate of merit affidavit for
13 each expert witness listed pursuant to section 668.11 who will
14 testify with respect to the issues of standard of care, breach
15 of standard of care, or causation. All expert witnesses must
16 meet the qualifying standards of section 147.139.

17 *b.* A certificate of merit affidavit must be signed by the
18 expert witness and certify the purpose for calling the expert
19 witness by providing under the oath of the expert witness all
20 of the following:

21 (1) The expert witness's statement of familiarity with the
22 applicable standard of care.

23 (2) The expert witness's statement that the standard of care
24 was breached by the health care provider named in the petition.

25 (3) The expert witness's statement of the actions that the
26 health care provider failed to take or should have taken to
27 comply with the standard of care.

28 (4) The expert witness's statement of the manner by which
29 the breach of the standard of care was the cause of the injury
30 alleged in the petition.

31 *c.* A plaintiff shall serve a separate certificate of merit
32 affidavit on each defendant named in the petition.

33 *d.* Answers to interrogatories may serve as an expert
34 witness's certificate of merit affidavit in lieu of a
35 separately executed affidavit if the interrogatories satisfy

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 the requirements of this subsection and are signed by the
2 plaintiff's attorney and by each expert witness listed in the
3 answers to interrogatories and served upon the defendant within
4 ninety days of the defendant's answer.

5 2. An expert witness's certificate of merit affidavit does
6 not preclude additional discovery and supplementation of the
7 expert witness's opinions in accordance with the rules of civil
8 procedure.

9 3. The parties by agreement or the court for good cause
10 shown and in response to a motion filed prior to the expiration
11 of the time limits specified in subsection 1 may provide for
12 extensions of the time limits. Good cause shall include
13 but not be limited to the inability to timely obtain the
14 plaintiff's medical records from health care providers when
15 requested prior to filing the petition.

16 4. If the plaintiff is acting pro se, the plaintiff
17 shall sign the certificate of merit affidavit or answers to
18 interrogatories referred to in this section and shall be bound
19 by those provisions as if represented by an attorney.

20 5. a. Failure to substantially comply with subsection
21 1 shall result, upon motion, in dismissal with prejudice of
22 each cause of action as to which expert witness testimony is
23 necessary to establish a prima facie case.

24 b. A written notice of deficiency may be served upon the
25 plaintiff for failure to comply with subsection 1 because of
26 deficiencies in the certificate of merit affidavit or answers
27 to interrogatories. The notice shall state with particularity
28 each deficiency of the affidavit or answers to interrogatories.
29 The plaintiff shall have twenty days to cure the deficiency.
30 Failure to comply within the twenty days shall result, upon
31 motion, in mandatory dismissal with prejudice of each action
32 as to which expert witness testimony is necessary to establish
33 a prima facie case. A party resisting a motion for mandatory
34 dismissal pursuant to this section shall have the right to
35 request a hearing on the motion.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 6. For purposes of this section, "health care provider"
2 means the same as defined in section 147.136A.

3 Sec. 6. NEW SECTION. **622.31A Evidence-based medical**
4 **practice guidelines — affirmative defense.**

5 1. For purposes of this section:

6 *a. "Evidence-based medical practice guidelines" means*
7 *voluntary medical practice parameters or protocols established*
8 *and released through a recognized physician consensus-building*
9 *organization approved by the United States department of*
10 *health and human services, the American medical association's*
11 *physician consortium for performance improvement or similar*
12 *activity, or a recognized national medical specialty society.*

13 *b. "Health care provider" means the same as defined in*
14 *section 147.136A.*

15 2. In an action for personal injury or wrongful death
16 against a health care provider based upon the alleged
17 negligence in the practice of that profession or occupation or
18 in patient care, the health care provider may establish as an
19 affirmative defense that the health care provider complied with
20 evidence-based medical practice guidelines in the diagnosis and
21 treatment of the patient.

22 3. The court shall admit evidence-based medical practice
23 guidelines into evidence if introduced by a health care
24 provider or the health care provider's employer and if the
25 health care provider or the health care provider's employer
26 submits evidence that the evidence-based medical practice
27 guidelines were appropriate for the patient and that the
28 health care provider complied with such evidence-based
29 medical practice guidelines. Evidence of departure from an
30 evidence-based medical practice guideline is admissible only on
31 the issue of whether the health care provider is entitled to
32 establish an affirmative defense under this section.

33 4. This section shall not apply to any of the following:

34 *a. The health care provider's mistaken determination that*
35 *an evidence-based medical practice guideline applied to a*

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 particular patient where such mistake was caused by the health
2 care provider's negligence or intentional misconduct.

3 b. The health care provider's failure to properly follow
4 an evidence-based medical practice guideline where such
5 failure was caused by the health care provider's negligence or
6 intentional misconduct.

7 5. There shall be no presumption of negligence if a health
8 care provider did not adhere to an evidence-based medical
9 practice guideline.

10

EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill relates to medical malpractice claims, including
14 noneconomic damage awards, contingency fees, expert witnesses,
15 and defenses.

16 ADVERSE HEALTH CARE INCIDENTS. Under Code chapter 135P, if
17 an adverse health care incident occurs, a health care provider
18 may offer to engage in an open discussion with the patient. If
19 the patient agrees, the health care provider may investigate
20 the incident, disclose the results to the patient, and discuss
21 steps the health care provider will take to prevent similar
22 incidents. The health care provider may also communicate to
23 the patient whether the health care provider believes that
24 an offer of compensation is warranted. All communications
25 made related to the open discussion are privileged and
26 confidential, are not subject to discovery or subpoena, and
27 are not admissible in evidence in a judicial, administrative,
28 or arbitration proceeding. Under current Code chapter 135P,
29 "health care provider" is defined as a physician licensed under
30 Code chapter 148, a physician assistant licensed under Code
31 chapter 148C, a podiatrist licensed under Code chapter 149, or
32 an advanced registered nurse practitioner licensed pursuant
33 to Code chapter 152 or 152E. The bill redefines "health
34 care provider" to mean a physician or osteopathic physician
35 licensed under chapter 148, a physician assistant licensed and

LSB 1987YC (4) 87

-7-

jh/nh

7/11

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 practicing under a supervising physician pursuant to chapter
2 148C, a podiatrist licensed under chapter 149, a chiropractor
3 licensed under chapter 151, a licensed practical nurse, a
4 registered nurse, or an advanced registered nurse practitioner
5 licensed under chapter 152 or 152E, a dentist licensed under
6 chapter 153, an optometrist licensed under chapter 154, a
7 pharmacist licensed under chapter 155A, or any other person who
8 is licensed, certified, or otherwise authorized or permitted by
9 the law of this state to administer health care in the ordinary
10 course of business or in the practice of a profession.

11 NONECONOMIC DAMAGES IN MEDICAL MALPRACTICE CASES. The
12 bill defines "noneconomic damages" as damages arising from
13 pain, suffering, inconvenience, physical impairment, mental
14 anguish, emotional pain and suffering, loss of chance,
15 loss of consortium, or any other nonpecuniary damages. The
16 bill provides that the total amount of noneconomic damages
17 recoverable from all defendants in all civil actions, whether
18 in tort, contract, or otherwise and including derivate actions,
19 that arise out of an act or omission in connection with the
20 provision of health care services shall not exceed two hundred
21 fifty thousand dollars. However, the limitation does not apply
22 as to a defendant if that defendant's actions constituted
23 actual malice.

24 CONTINGENCY FEES. Under current law, in any action for
25 personal injury or wrongful death against any physician and
26 surgeon, osteopathic physician and surgeon, dentist, podiatric
27 physician, optometrist, pharmacist, chiropractor, nurse, or
28 hospital, based upon the alleged negligence of the licensee
29 in the practice of that profession or occupation, or upon the
30 alleged negligence of the hospital in patient care, the court
31 determines the reasonableness of any contingent fee arrangement
32 between the plaintiff and the plaintiff's attorney. The bill
33 provides that a court shall also review the reasonableness of
34 a contingent fee in a negligence case involving an advanced
35 registered nurse practitioner, physician assistant, or a

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 residential care facility, a nursing facility, an intermediate
2 care facility for persons with mental illness, or an
3 intermediate care facility for persons with an intellectual
4 disability. The bill also provides that the contingent fee
5 shall not exceed 35 percent of the total settlement or award
6 unless the plaintiff or the plaintiff's attorney petitions the
7 court for a greater amount and the court determines that the
8 additional amount is fair and reasonable.

9 EXPERT WITNESSES IN MEDICAL MALPRACTICE CASES. The
10 bill provides standards for an expert witness in a medical
11 malpractice case. The bill provides that a person is
12 only qualified to serve as an expert witness in a medical
13 malpractice case if the person is a licensed health care
14 provider, is in good standing in each state of licensure, and
15 in the five years preceding the act or omission alleged to
16 be negligent, has not had a license in any state revoked or
17 suspended; in the five years preceding the act or omission
18 alleged to be negligent, actively practiced in the same field
19 as the defendant or was a qualified instructor at an accredited
20 university in the same field as the defendant; practiced or
21 provided instruction in the same or substantially similar
22 specialty as the defendant; is trained and experienced in the
23 same discipline or school of practice as the defendant or
24 has specialty expertise in the disease process or procedure
25 performed in the case; and, if the defendant is board-certified
26 in a specialty, the person is certified in the same specialty.

27 The bill provides that a person who is not licensed in Iowa
28 but is licensed in another state and who testifies as an expert
29 witness in a medical malpractice case shall be deemed to hold
30 a temporary license to practice in Iowa and shall be subject
31 to the authority of the applicable licensing board in Iowa
32 including but not limited to Code section 147.55.

33 The bill establishes a requirement for a certificate of
34 merit affidavit for expert witnesses in medical malpractice
35 cases. In an action for personal injury or wrongful death

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 against a health care provider based upon alleged negligence
2 in the practice of that profession or in patient care, the
3 bill requires the plaintiff, within 90 days of the defendant's
4 answer, to serve upon the defendant a certificate of merit
5 affidavit for each expert witness who will testify with respect
6 to the issues of standard of care, breach of standard of care,
7 or causation. A certificate of merit affidavit must be signed
8 by the expert witness and certify the purpose for calling
9 the expert witness by providing under the oath of the expert
10 witness the expert witness's statement of familiarity with the
11 applicable standard of care; statement that the standard of
12 care was breached by the health care provider; statement of the
13 actions that the health care provider failed to take or should
14 have taken; and statement of the manner by which the breach of
15 the standard of care was the cause of the injury.

16 The bill provides that answers to interrogatories may
17 serve as an expert witness's certificate of merit affidavit
18 if the interrogatories satisfy the requirements of the bill.
19 The bill provides that the expert witness's certificate of
20 merit affidavit does not preclude additional discovery and
21 supplementation of the expert witness's opinions.

22 The bill provides that failure to substantially comply with
23 the new requirements shall result, upon motion, in dismissal
24 with prejudice of each cause of action as to which expert
25 witness testimony is necessary to establish a prima facie
26 case. A written notice of deficiency may be served upon the
27 plaintiff for failure to comply with the bill requirements
28 because of deficiencies in the certificate of merit affidavit
29 or answers to interrogatories, and the plaintiff shall have 20
30 days to cure the deficiency. Failure to comply within the 20
31 days shall result, upon motion, in mandatory dismissal with
32 prejudice of each action as to which expert witness testimony
33 is necessary to establish a prima facie case.

34 **EVIDENCE-BASED MEDICAL PRACTICE GUIDELINES.** The bill
35 defines "evidence-based medical practice guidelines" as

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 voluntary medical practice parameters or protocols established
2 and released through a recognized physician consensus-building
3 organization.

4 The bill provides that in any action for personal injury
5 or wrongful death against a health care provider based
6 upon the alleged negligence of the health care provider in
7 patient care, the health care provider may establish as an
8 affirmative defense that the health care provider complied with
9 evidence-based medical practice guidelines in the diagnosis and
10 treatment of the patient.

11 The bill provides that the court shall admit evidence-based
12 medical practice guidelines into evidence if introduced by a
13 health care provider or the health care provider's employer
14 and if the health care provider or the health care provider's
15 employer submits evidence that the evidence-based medical
16 practice guideline was appropriate for the patient and that
17 the health care provider complied with such evidence-based
18 medical practice guidelines. Evidence of departure from a
19 guideline is admissible only on the issue of whether the health
20 care provider is entitled to establish an affirmative defense
21 under the bill. There shall be no presumption of negligence
22 if a health care provider did not adhere to an evidence-based
23 medical practice guideline.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House Study Bill 106 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to the failure to wear a motor vehicle
2 safety belt or safety harness or use a motor vehicle child
3 restraint system.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2337YC (3) 87
ns/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 Section 1. Section 321.445, subsection 4, paragraph b, Code
2 2017, is amended to read as follows:

3 b. In a cause of action arising on or after July 1, 1986,
4 brought to recover damages arising out of the ownership or
5 operation of a motor vehicle, the failure to wear a safety belt
6 or safety harness in violation of this section shall ~~not~~ may be
7 considered evidence of comparative fault under section 668.3,
8 subsection 1, of a person sixteen years of age or older, a
9 person issued a permit under section 321.180B, subsection 1, or
10 a person issued a license under section 321.194, provided that-
11 ~~However, except as provided in section 321.446, subsection~~
12 ~~6, the failure to wear a safety belt or safety harness in~~
13 ~~violation of this section may be admitted to mitigate damages,~~
14 ~~but only under the following circumstances:~~

15 (1) ~~Parties~~ parties seeking to introduce evidence of the
16 failure to wear a safety belt or safety harness in violation of
17 this section ~~must~~ first introduce substantial evidence that the
18 failure to wear a safety belt or safety harness contributed to
19 the injury or injuries claimed by the plaintiff.

20 (2) ~~If the evidence supports such a finding, the trier of~~
21 ~~fact may find that the plaintiff's failure to wear a safety~~
22 ~~belt or safety harness in violation of this section contributed~~
23 ~~to the plaintiff's claimed injury or injuries, and may reduce~~
24 ~~the amount of plaintiff's recovery by an amount not to exceed~~
25 ~~five percent of the damages awarded after any reductions for~~
26 ~~comparative fault.~~

27 Sec. 2. Section 321.446, subsection 6, Code 2017, is amended
28 to read as follows:

29 6. Failure to use a child restraint system, safety belts,
30 or safety harnesses as required by this section does not
31 constitute negligence by a person under the age of sixteen
32 unless the person has been issued a permit under section
33 321.180B, subsection 1, or a license under section 321.194,
34 nor is the failure admissible as evidence in a civil action
35 relating to the conduct of a person under the age of sixteen

LSB 2337YC (3) 87

-1-

ns/nh

1/2

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

H.F. _____

1 unless the person has been issued a permit under section
2 321.180B, subsection 1, or a license under section 321.194.

3 **EXPLANATION**

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 Under current law, evidence of failure to wear a motor
7 vehicle safety belt or safety harness as required by Code
8 section 321.445(2) may be used to mitigate damages in a civil
9 case upon a showing of substantial evidence that the failure
10 to wear a safety belt or safety harness contributed to the
11 injuries claimed. In addition, current law provides that
12 the maximum amount which damages may be reduced for failure
13 to wear a motor vehicle safety belt or safety harness is 5
14 percent of the damages awarded. This bill eliminates the
15 statutory five percent limitation on such damages reduction
16 for persons who are 16 years old or older and for persons who
17 have an instruction permit under Code section 321.180B(1) or
18 a special minor's license under Code section 321.194. As a
19 result, a jury may decide to reduce damages awarded by more
20 than 5 percent for failure to wear a motor vehicle safety belt
21 or safety harness.

22 Current law provides that evidence of a failure to use a
23 child restraint system, safety belts, or safety harnesses
24 for persons under the age of 18, as required by Code section
25 321.446(6), does not constitute negligence nor is such evidence
26 admissible in a civil action. A child restraint system is a
27 specially designed seating system, including a belt-positioning
28 seat or a booster seat, that meets federal motor vehicle safety
29 standards. The bill eliminates the prohibition on introducing
30 such evidence for persons who are 16 years old or older and
31 for persons who have an instruction permit under Code section
32 321.180B(1) or a special minor's license under Code section
33 321.194.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

House Study Bill 107 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR BILL)

A BILL FOR

1 An Act relating to computer science education by providing
2 for education standards by the state board of education,
3 for instructor endorsements and authorizations issued by
4 the board of educational examiners, for establishment of a
5 computer science professional development incentive fund,
6 and for the establishment of a computer science education
7 work group.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1277XL (13) 87
kh/sc

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 Section 1. Section 256.7, subsection 26, paragraph a, Code
2 2017, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (4) The rules shall provide for the
4 establishment of high-quality standards for computer science
5 education taught by elementary, middle, and high schools,
6 in accordance with the goal established under section
7 284.6A, subsection 1, setting a foundation for personal and
8 professional success in a high-technology, knowledge-based
9 Iowa economy. Such rules shall be applicable only to school
10 districts and accredited nonpublic schools receiving moneys
11 from the computer science professional development incentive
12 fund under section 284.6A, or from other funds administered by
13 the department for the same purposes as specified in section
14 284.6A, subsection 2.

15 Sec. 2. Section 272.2, Code 2017, is amended by adding the
16 following new subsection:

17 NEW SUBSECTION. 20. Establish by rule endorsements and
18 authorizations for computer science instruction, including
19 traditional and nontraditional pathways for obtaining such
20 endorsements or authorizations.

21 Sec. 3. NEW SECTION. **284.6A Computer science professional**
22 **development incentive fund — legislative findings.**

23 1. The general assembly finds and declares all of the
24 following:

25 a. That instruction in high-quality computer science for
26 elementary, middle school, and high school students establishes
27 a foundation for personal and professional success in a
28 high-technology, knowledge-based Iowa economy.

29 b. It is the goal of the general assembly that by July
30 1, 2019, each accredited high school offer at least one
31 high-quality computer science course, each accredited middle
32 school offer instruction in exploratory computer science, and
33 each accredited elementary school offer instruction in the
34 basics of computer science.

35 c. It is the intent of the general assembly to appropriate

LSB 1277XL (13) 87

-1-

kh/sc

1/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 moneys for purposes of the computer science professional
2 development incentive fund for the fiscal year beginning July
3 1, 2018.

4 2. Subject to an appropriation of sufficient funds by the
5 general assembly, the computer science professional development
6 incentive fund is established in the state treasury under the
7 control of the department. The department may disburse moneys
8 contained in the fund for professional development activities
9 or tuition reimbursement as follows:

10 a. A school district or accredited nonpublic school, or
11 a collaborative of one or more school districts, accredited
12 nonpublic schools, and area education agencies, may apply to
13 the department, in the manner prescribed by the department, to
14 receive moneys from the fund to provide proven professional
15 development activities for Iowa teachers in the area of
16 computer science education.

17 b. A school district or accredited nonpublic school
18 may apply to the department, in the manner prescribed by
19 the department, to receive moneys from the fund to provide
20 tuition reimbursement for Iowa teachers seeking endorsements
21 or authorizations for computer science under section 272.2,
22 subsection 20.

23 3. Notwithstanding section 8.33, moneys in the computer
24 science professional development incentive fund that remain
25 unencumbered or unobligated at the close of the fiscal year
26 shall not revert but shall remain available for expenditure
27 for the purposes designated until the close of the succeeding
28 fiscal year.

29 Sec. 4. COMPUTER SCIENCE EDUCATION WORK GROUP.

30 1. The director of the department of education shall
31 convene a computer science education work group to identify
32 and recommend measures for incentivizing school districts and
33 accredited nonpublic schools to meet the following goals by the
34 school year beginning July 1, 2019:

35 a. Offer at least one high-quality computer science course

LSB 1277XL (13) 87

-2-

kh/sc

2/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 in each high school.

2 b. Offer instruction in exploratory computer science in
3 each middle school.

4 c. Offer instruction in the basics of computer science in
5 each elementary school.

6 2. The work group shall also develop recommendations that,
7 at a minimum, address or identify the following:

8 a. How one or more high-quality computer science courses can
9 satisfy high school graduation requirements for mathematics or
10 science.

11 b. How one or more high-quality computer science courses can
12 be integrated into a career and technical education pathway.

13 c. Multiple settings for the delivery of high-quality high
14 school computer science courses, including traditional high
15 school classes, concurrent enrollment classes, and online
16 learning classes that include the opportunity for students to
17 collaborate within a classroom setting.

18 d. Guidelines for creating a kindergarten through grade
19 twelve career pathway in computer science, with an appropriate
20 scope and sequence for high-quality computer science
21 instruction at each such grade level.

22 e. How the computer science professional development
23 incentive fund established under section 284.6A, if enacted
24 by this Act, could be used to meet the goals set forth in
25 subsection 1.

26 3. The membership of the work group shall represent
27 kindergarten through grade twelve school districts and
28 accredited nonpublic schools, higher education, business,
29 labor, and other appropriate stakeholders.

30 4. The work group shall submit its findings and
31 recommendations, including any proposed legislation, in a
32 report to the governor, the state board of education, and the
33 general assembly by November 1, 2017.

34 Sec. 5. DIRECTIVE TO STATE BOARD OF EDUCATION. The state
35 board of education shall submit a notice of intended action to

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 the administrative rules coordinator and the administrative
2 code editor pursuant to section 17A.4, subsection 1, paragraph
3 "a", not later than December 13, 2017, for the adoption of
4 rules to implement section 256.7, subsection 26, paragraph "a",
5 subparagraph (4), as enacted in this Act.

6 **EXPLANATION**

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill requires the state board of education to adopt
10 computer science education standards, requires the board of
11 educational examiners to establish computer science instructor
12 endorsements and authorizations and alternative pathways to
13 obtain such endorsements and authorizations, establishes a
14 computer science professional development incentive fund in
15 the state treasury, and directs the department of education to
16 convene a computer science education work group.

17 The bill directs the state board of education to adopt rules
18 providing for the establishment of high-quality standards
19 for computer science education taught by elementary, middle,
20 and high schools. The rules shall be applicable only to
21 those school districts and schools that receive moneys from
22 the incentive fund or from other funds administered by the
23 department for the same purposes as specified for the incentive
24 fund. The state board must submit notice of intended action as
25 provided in Code section 17A.4(1)(a) by December 13, 2017.

26 The board of educational examiners is directed to establish
27 by rule endorsements and authorizations for computer science
28 instruction, including traditional and nontraditional pathways
29 for obtaining such endorsements or authorizations.

30 Under the bill, the general assembly finds and declares
31 that instruction in high-quality computer science for
32 elementary, middle school, and high school students establishes
33 a foundation for personal and professional success in a
34 high-technology, knowledge-based Iowa economy. The goal of
35 the general assembly is for each accredited high school to

LSB 1277XL (13) 87

-4-

kh/sc

4/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 offer at least one high-quality computer science course, each
2 accredited middle school to offer instruction in exploratory
3 computer science, and each accredited elementary school to
4 offer instruction in the basics of computer science.

5 It is the intent of the general assembly to appropriate
6 moneys for purposes of the computer science professional
7 development incentive fund for the fiscal year beginning July
8 1, 2018. The fund is established by the bill in the state
9 treasury under the control of the department, subject to an
10 appropriation of sufficient funds by the general assembly.

11 Moneys from the fund can be disbursed to a school district
12 or accredited nonpublic school, or a collaborative of one
13 or more school districts, accredited nonpublic schools,
14 and area education agencies, to provide proven professional
15 development activities for Iowa teachers in the area of
16 computer science education. Moneys from the fund can also be
17 disbursed to a school district or accredited nonpublic school
18 to provide tuition reimbursement for Iowa teachers seeking
19 endorsements or authorizations for computer science. A school
20 district, accredited nonpublic school, or a collaborative,
21 as appropriate, must apply to the department in the manner
22 prescribed by the department in order to receive moneys from
23 the fund. Moneys in the fund that remain unencumbered or
24 unobligated at the close of the fiscal year shall not revert
25 but shall remain available for expenditure for the purposes
26 designated until the close of the succeeding fiscal year.

27 The bill requires the director of the department of
28 education to convene a computer science education work group
29 to identify and recommend measures for incentivizing school
30 districts and accredited nonpublic schools to meet, by the
31 school year beginning July 1, 2019, the goals of offering at
32 least one high-quality computer science course in each high
33 school, offering instruction in exploratory computer science in
34 each middle school, and offering instruction in the basics of
35 computer science in each elementary school.

LSB 1277XL (13) 87

-5-

kh/sc

5/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 The work group must also develop recommendations that, at
2 a minimum, address or identify how one or more high-quality
3 computer science courses can satisfy high school graduation
4 requirements for mathematics or science; how one or more
5 high-quality computer science courses can be integrated into
6 a career and technical education pathway; multiple settings
7 for the delivery of high-quality high school computer science
8 courses, including traditional high school classes, concurrent
9 enrollment classes, and online learning classes that include
10 the opportunity for students to collaborate within a classroom
11 setting; guidelines for creating a kindergarten through grade
12 12 career pathway in computer science, with an appropriate
13 scope and sequence for high-quality computer science
14 instruction at each such grade level; and how the computer
15 science professional development incentive fund could be used
16 to meet the computer science instruction goals.

17 The work group's membership must represent kindergarten
18 through grade 12 school districts and accredited nonpublic
19 schools, higher education, business, labor, and other
20 appropriate stakeholders. The work group must submit
21 its findings and recommendations, including any proposed
22 legislation, in a report to the governor, the state board of
23 education, and the general assembly by November 1, 2017.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 213

S-3018

1 Amend Senate File 213 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. PUBLIC EMPLOYEE HEALTH INSURANCE REFORM
5 STUDY COMMITTEE.

6 1. For purposes of this section, "public employee"
7 means an employee of the state, including an employee
8 of the state board of regents and institutions
9 governed by the state board; a county; a city; a school
10 district, an area education agency, or a community
11 college; or any other political subdivision.

12 2. The insurance division of the department of
13 commerce shall establish a public employee health
14 insurance reform study committee. The study committee
15 shall conduct a study to review the availability of
16 affordable, quality health insurance coverage for
17 public employees, the establishment of continuity of
18 coverage for public employers and their employees,
19 methods to improve the efficiency and fairness of the
20 health insurance marketplace for public employers and
21 their employees, relevant insurance ratings practices,
22 and related matters. The study shall include a
23 comparison of health insurance coverage that is offered
24 by the various public employers in this state and by
25 private sector employers. The study committee shall
26 examine the feasibility of the following:

27 a. Establishing basic or standard health benefit
28 plans with benefit levels, cost-sharing levels,
29 exclusions, and limitations available to all public
30 employers and their employees.

31 b. Establishing uniform coverage plans with benefit
32 coverages that may be added to the basic or standard
33 plans, at the option of a public employer.

34 c. Establishing restrictions on premium rates and
35 rate increases.

SF213.357 (3) 87

-1-

je/rj

1/3

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

- 1 d. Establishing a public employer health
2 reinsurance program.
- 3 e. Establishing a premium rating system based on
4 the statewide health status, claims experience, and
5 other demographic characteristics of public employees.
- 6 3. The study committee's feasibility examination
7 shall include actuarial analysis as appropriate.
8 The actuary conducting the analysis shall examine
9 past experience and claim history and project future
10 experience, claims, and rates for multiple scenarios as
11 requested by the study committee.
- 12 4. The commissioner of insurance shall select
13 the members of the public employee health insurance
14 reform study committee which shall include all of the
15 following:
- 16 a. A representative of the state.
17 b. A representative of the state board of regents.
18 c. A representative of a county.
19 d. A representative of a city.
20 e. A representative of a school district.
21 f. A representative of the largest statewide
22 employee organization representing state employees.
23 g. A representative of the largest employee
24 organization that represents school district employees.
25 h. A representative of an employee organization
26 representing police officers.
27 i. A representative of an employee organization
28 representing fire fighters.
29 j. A representative of a health insurance carrier.
30 k. A representative of a health insurance provider.
31 l. Such other representatives who, in the opinion
32 of the commissioner, have expertise that would assist
33 the study committee in accomplishing its purpose.
- 34 5. The commissioner shall submit a report to
35 the general assembly on or before January 16,

SF213.357 (3) 87

-2-

je/rj

2/3

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

1 2018, regarding the study committee's findings and
2 recommendations, including proposed legislation,
3 concerning health insurance coverage for public
4 employers and their employees.>

5 2. Title page, by striking lines 2 through 7 and
6 inserting <employees by providing for the establishment
7 of a public employee health insurance reform study
8 committee by the insurance division of the department
9 of commerce.>

NATE BOULTON

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 231 - Introduced

SENATE FILE 231
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1040)

A BILL FOR

1 An Act relating to provisions applicable to life insurance
2 companies and associations, and credit for reinsurance, and
3 including retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1230SV (1) 87
av/rn/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 231

1 Section 1. Section 511.8, subsection 22, paragraph b,
2 subparagraph (2), subparagraph division (b), Code 2017, is
3 amended to read as follows:

4 (b) Financial instruments used in hedging transactions
5 between an insurer and a conduit which are collateralized by
6 obligations eligible under [subsection 5](#) or by cash equivalents
7 eligible under [subsection 24](#), other than a ~~class-one rule~~
8 [2a-7](#) money market fund, are eligible only to the extent that
9 such securities deposited as collateral are not in excess
10 of ten percent of the legal reserve, less any obligations
11 eligible under [subsection 5](#) or cash equivalents eligible under
12 [subsection 24](#), other than a ~~class-one rule~~ [2a-7](#) money market
13 fund, owned by the insurer or which are the subject of hedging
14 transactions by the insurer, that are included in the insurer's
15 legal reserve.

16 Sec. 2. Section 511.8, subsection 23, paragraph c, Code
17 2017, is amended to read as follows:

18 c. If the loan is collateralized by cash or cash
19 equivalents, the cash or cash equivalent collateral may be
20 reinvested by the life insurance company or association in
21 ~~class-one rule~~ [2a-7](#) money market funds as defined in [subsection](#)
22 [24](#), individual securities which are eligible for inclusion in
23 the legal reserve of the life insurance company or association,
24 or in repurchase agreements fully collateralized by such
25 securities if the life insurance company or association takes
26 delivery of the collateral either directly or through an
27 authorized custodian or pooled fund comprised of individual
28 securities which are eligible for inclusion in the legal
29 reserve of the life insurance company or association. If such
30 reinvestment is made in individual securities or in repurchase
31 agreements, the individual securities or the securities which
32 collateralize the repurchase agreements shall mature in less
33 than two hundred seventy days. If such reinvestment is made
34 in a pooled fund, the average maturity of the securities
35 comprising such pooled fund must be one hundred eighty days or

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 231

1 less and the individual maturities of the securities comprising
2 such pooled fund must be three hundred ninety-seven days or
3 less. Individual securities and securities comprising the
4 pooled fund shall be investment grade. As used in this
5 paragraph, "maturity" means the earlier of the fixed date on
6 which the holder of the security is unconditionally entitled to
7 receive principal and interest in full or the date on which the
8 holder of the security is unconditionally entitled upon demand
9 to receive principal and interest in full.

10 Sec. 3. Section 511.8, subsection 24, paragraph a,
11 subparagraph (2), Code 2017, is amended to read as follows:

12 (2) ~~"Class one Rule 2a-7 money market fund"~~ means
13 investments in an open-end management investment company
14 registered with the federal securities and exchange commission
15 under the federal Investment Company Act of 1940, 15 U.S.C.
16 §80a-1 et seq., and operated in accordance with 17 C.F.R.
17 §270.2a-7, ~~that qualifies for investment using the bond class~~
18 ~~one reserve factor under the purposes and procedures of the~~
19 ~~national association of insurance commissioners' securities~~
20 ~~valuation office.~~

21 Sec. 4. Section 511.8, subsection 24, paragraphs b and c,
22 Code 2017, are amended to read as follows:

23 b. Cash equivalents include a ~~class one rule 2a-7~~ money
24 market fund.

25 c. Cash equivalents, other than a ~~class one rule 2a-7~~ money
26 market fund, are not eligible in excess of two percent of the
27 legal reserve in the obligations of any one corporation, and
28 are not eligible in excess of ten percent of the legal reserve.

29 Sec. 5. Section 521B.102, unnumbered paragraph 1, Code
30 2017, is amended to read as follows:

31 Credit for reinsurance shall be allowed a domestic ceding
32 insurer as either an asset or a reduction from liability on
33 account of reinsurance ceded only when the reinsurer meets
34 the requirements of [subsection 1, 2, 3, 4, 5, or 6](#). The
35 commissioner may adopt rules pursuant to section 521B.105

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 231

1 specifying additional requirements related to the valuation of
2 assets or reserve credits, the amount and forms of security
3 supporting reinsurance arrangements described in section
4 521B.105, and the circumstances pursuant to which credit shall
5 be reduced or eliminated. Credit shall be allowed under
6 subsection 1, 2, or 3 only respecting cessions of those kinds
7 or classes of business which the assuming insurer is licensed
8 or otherwise permitted to write or assume in the insurer's
9 state of domicile or, in the case of a United States branch
10 of an alien assuming insurer, in the state through which the
11 insurer is entered and licensed to transact insurance or
12 reinsurance. Credit shall be allowed under subsection 3 or 4
13 only if the applicable requirements of subsection 7 have been
14 satisfied.

15 Sec. 6. Section 521B.103, subsection 1, Code 2017, is
16 amended to read as follows:

17 1. An asset or a reduction from liability for reinsurance
18 ceded by a domestic insurer to an assuming insurer not meeting
19 the requirements of section 521B.102, shall be allowed in an
20 amount not exceeding the liabilities carried by the ceding
21 insurer. The commissioner may adopt rules pursuant to section
22 521B.105 specifying requirements related to the valuation of
23 assets or reserve credits, the amount and forms of security
24 supporting reinsurance arrangements described in section
25 521B.105, and the circumstances pursuant to which credit shall
26 be reduced or eliminated. The reduction shall be in the amount
27 of funds held by or on behalf of the ceding insurer, including
28 funds held in trust for the ceding insurer, under a reinsurance
29 contract with the assuming insurer as security for the payment
30 of obligations under the contract, if the security is held
31 in the United States subject to withdrawal solely by, and
32 under the exclusive control of, the ceding insurer, or in the
33 case of a trust, held in a qualified United States financial
34 institution as defined in section 521B.104, subsection 2.

35 Sec. 7. Section 521B.105, Code 2017, is amended to read as

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 231

1 follows:

2 **521B.105 Rules.**

3 1. The commissioner may adopt rules, pursuant to chapter
4 17A, as necessary or convenient to administer this chapter.

5 2. The commissioner is further authorized to adopt rules
6 pursuant to chapter 17A that are applicable to reinsurance
7 arrangements as follows:

8 a. A rule adopted pursuant to this subsection is applicable
9 only to reinsurance arrangements relating to the following:

10 (1) Life insurance policies with guaranteed nonlevel gross
11 premiums or guaranteed nonlevel benefits.

12 (2) Universal life insurance policies with provisions
13 allowing a policyholder to keep a policy in force over a
14 secondary guarantee period.

15 (3) Variable annuities with guaranteed death or living
16 benefits.

17 (4) Long-term care insurance policies.

18 (5) Other life and health insurance and annuity products as
19 to which the national association of insurance commissioners
20 adopts model regulatory requirements with respect to credit for
21 reinsurance.

22 b. A rule adopted pursuant to paragraph "a", and applicable
23 to policies described in paragraph "a", subparagraph (1) or (2),
24 is applicable to any reinsurance contract containing either of
25 the following:

26 (1) Policies issued on or after January 1, 2015.

27 (2) Policies issued prior to January 1, 2015, if risk
28 pertaining to such policies is ceded in connection with the
29 reinsurance contract, in whole or in part, on or after January
30 1, 2015.

31 c. A rule adopted pursuant to this subsection may require
32 the ceding insurer, in calculating the amounts or forms of
33 security required to be held under rules adopted under this
34 subsection, to use the valuation manual as defined in section
35 508.36, including all amendments adopted by the national

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 231

1 association of insurance commissioners and in effect on
2 the date as of which the calculation is made, to the extent
3 applicable.

4 3. A rule adopted pursuant to this section is not applicable
5 to cessions to an assuming insurer that meets either of the
6 following requirements:

7 a. Is certified in Iowa.

8 b. Maintains at least two hundred fifty million dollars
9 in capital and surplus when determined in accordance with the
10 accounting practices and procedures manual of the national
11 association of insurance commissioners, including all
12 amendments adopted by the national association of insurance
13 commissioners, but excluding the impact of any permitted
14 or prescribed practices; and meets either of the following
15 requirements:

16 (1) Is licensed in at least twenty-six states.

17 (2) Is licensed in at least ten states, and is licensed or
18 accredited in a total of at least thirty-five states.

19 4. The commissioner's authority to adopt rules pursuant
20 to subsection 2 does not limit the commissioner's general
21 authority to adopt rules pursuant to subsection 1.

22 **Sec. 8. RETROACTIVE APPLICABILITY.** The following provision
23 of this Act applies retroactively to January 1, 2015, as to
24 specified reinsurance contracts described in section 521B.105,
25 subsection 2, paragraph "b", as enacted in this Act:

26 1. The section of this Act amending section 521B.105.

27 **EXPLANATION**

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill relates to provisions applicable to life insurance
31 companies and associations and credit for reinsurance, and
32 contains a retroactive applicability provision.

33 The bill makes changes in Code section 511.8 by renaming a
34 money market fund that is referred to in the provision.

35 The bill makes changes in several provisions of Code

LSB 1230SV (1) 87
av/rn/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 231

1 chapter 521B, giving the commissioner of insurance specific
2 authorization to adopt rules applicable to reinsurance
3 arrangements, in addition to the commissioner's existing
4 authorization to adopt rules to administer the Code chapter.
5 The amendments to Code section 521B.105 are made
6 retroactively applicable to January 1, 2015, as to rules that
7 are adopted and are applicable to certain specified life
8 insurance policies with reinsurance contracts containing
9 policies issued on or after January 1, 2015, or policies issued
10 prior to January 1, 2015, if risk pertaining to the policies is
11 ceded in connection with the reinsurance contract on or after
12 January 1, 2015.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 232 - Introduced

SENATE FILE 232
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1042)

A BILL FOR

1 An Act relating to notifications made by the commissioner of
2 insurance of the potential need for a receivership for
3 certain preneed sellers and cemeteries.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1302SV (1) 87
av/nh/rn

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 232

1 Section 1. Section 523A.811, Code 2017, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 01. The commissioner may notify the
4 attorney general of the potential need for establishment of a
5 receivership if a receivership is requested or consented to by
6 a seller subject to this chapter.

7 Sec. 2. Section 523I.212, Code 2017, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 01. The commissioner may notify the
10 attorney general of the potential need for establishment of a
11 receivership if a receivership is requested or consented to by
12 a cemetery subject to this chapter.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 This bill allows the commissioner of insurance to notify
17 the attorney general of the potential need for establishment
18 of a receivership for a preneed seller of cemetery and
19 funeral merchandise or funeral services who is subject to Code
20 chapter 523A, if the preneed seller requests or consents to a
21 receivership.

22 Similarly, the bill allows the commissioner to notify the
23 attorney general of the potential need for establishment of a
24 receivership for a cemetery subject to Code chapter 523I if the
25 cemetery requests or consents to a receivership.

26 As required under current law, the commissioner must
27 continue to make such notifications if the commissioner finds
28 that a preneed seller or cemetery meets one or more specified
29 conditions.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 233 - Introduced

SENATE FILE 233
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1041)

A BILL FOR

1 An Act eliminating filing fees for requests for independent
2 review of certain determinations under long-term care
3 insurance policies.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1275SV (1) 87
av/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 233

1 Section 1. Section 514G.110, subsection 2, Code 2017, is
2 amended by striking the subsection.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill strikes a provision requiring that a \$25 filing fee
7 accompany a request for independent review of a benefit trigger
8 determination under a long-term care insurance policy.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 234 - Introduced

SENATE FILE 234
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 1002)

A BILL FOR

1 An Act relating to the use of electronic communication devices
2 to write, send, or read text messages while driving as a
3 primary offense.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1535SV (1) 87
ns/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 234

1 Section 1. Section 321.276, subsection 5, Code 2017, is
2 amended by striking the subsection.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill eliminates the provision that prohibits a peace
7 officer from stopping or detaining a person solely for a
8 violation of Code section 321.276, which relates to texting
9 while driving.

10 The scheduled fine for a violation of Code section 321.276
11 remains \$30. Under current law, the offense is not a moving
12 violation, and therefore cannot be considered for purposes
13 of administrative suspension of a driver's license or for
14 establishing habitual offender status. However, if the
15 violation causes a serious injury, a court could impose an
16 additional fine of \$500 or suspend the person's driver's
17 license for not more than 90 days, or both. If the violation
18 causes a death, a court could impose an additional fine of
19 \$1,000 or suspend the person's driver's license for not more
20 than 180 days, or both.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 235 - Introduced

SENATE FILE 235
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 1020)

A BILL FOR

1 An Act permitting motor vehicles to stand unattended without
2 first stopping the engine.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1913SV (1) 87
ns/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 235

1 Section 1. Section 321.362, Code 2017, is amended to read
2 as follows:

3 **321.362 Unattended motor vehicle.**

4 ~~No~~ A person driving or in charge of a motor vehicle shall
5 not permit ~~it~~ the vehicle to stand unattended ~~without first~~
6 ~~stopping the engine, or when standing~~ upon any perceptible
7 grade without effectively setting the brake ~~thereon~~ and turning
8 the front wheels to the curb or side of the highway.

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 Current law prohibits a person from permitting a vehicle to
13 stand unattended without first stopping the engine, or without
14 effectively setting the brake and turning the front wheels to
15 the curb or side of the highway when the vehicle is standing
16 upon any perceptible grade. A violation of this provision is
17 punishable by a scheduled fine of \$20.

18 This bill eliminates the prohibition on permitting a motor
19 vehicle to stand unattended without first stopping the engine.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 236 - Introduced

SENATE FILE 236
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1051)

A BILL FOR

1 An Act relating to the possession, sale, transfer, purchase,
2 and use of fireworks, providing penalties, and including
3 effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2088SV (2) 87
gh/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 DIVISION I
2 FIREWORKS REGULATION
3 Section 1. Section 100.1, subsection 4, paragraph b, Code
4 2017, is amended to read as follows:
5 *b.* The storage, transportation, handling, and use of
6 flammable liquids, combustibles, fireworks, and explosives;
7 Sec. 2. Section 100.1, Code 2017, is amended by adding the
8 following new subsection:
9 NEW SUBSECTION. 8. To order the suspension of the use
10 of consumer fireworks, display fireworks, or novelties, as
11 described in section 727.2, if the fire marshal determines that
12 the use of such devices would constitute a threat to public
13 safety.
14 Sec. 3. NEW SECTION. 100.19 Consumer fireworks seller
15 licensing — penalty — fund.
16 1. As used in this section:
17 *a.* “APA 87-1” means the American pyrotechnics association
18 standard 87-1, as published in December 2001.
19 *b.* “Community group” means a nonprofit entity that is open
20 for membership to the general public which is exempt from
21 federal income taxation pursuant to section 501(c)(3) of the
22 Internal Revenue Code or a fraternal benefit society, as that
23 term is defined in section 512B.3.
24 *c.* “First-class consumer fireworks” means the following
25 consumer fireworks, as described in APA 87-1, chapter 3:
26 (1) Aerial shell kits and reloadable tubes.
27 (2) Chasers.
28 (3) Helicopter and aerial spinners.
29 (4) Firecrackers.
30 (5) Mine and shell devices.
31 (6) Missile-type rockets.
32 (7) Roman candles.
33 (8) Sky rockets and bottle rockets.
34 (9) Multiple tube devices under this paragraph “c” that are
35 manufactured in accordance with APA 87-1, section 3.5.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

- 1 *d.* "Retailer" means as defined in section 423.1.
- 2 *e.* "Second-class consumer fireworks" means the following
- 3 consumer fireworks, as described in APA 87-1, chapter 3:
- 4 (1) Cone fountains.
- 5 (2) Cylindrical fountains.
- 6 (3) Flitter sparklers.
- 7 (4) Ground and hand-held sparkling devices, including
- 8 multiple tube ground and hand-held sparkling devices that are
- 9 manufactured in accordance with APA 87-1, section 3.5.
- 10 (5) Ground spinners.
- 11 (6) Illuminating torches.
- 12 (7) Toy smoke devices that are not classified as novelties
- 13 pursuant to APA 87-1, section 3.2.
- 14 (8) Wheels.
- 15 (9) Wire or dipped sparklers that are not classified as
- 16 novelties pursuant to APA 87-1, section 3.2.
- 17 2. *a.* The state fire marshal shall establish a consumer
- 18 fireworks seller license. An application for a consumer
- 19 fireworks seller license shall be made on a form provided
- 20 by the state fire marshal. The state fire marshal shall
- 21 adopt rules consistent with this section establishing minimum
- 22 requirements for a retailer or community group to be issued a
- 23 consumer fireworks seller license.
- 24 *b.* A person shall possess a consumer fireworks seller
- 25 license under this section in order to sell consumer fireworks.
- 26 3. *a.* The state fire marshal shall establish a fee schedule
- 27 for consumer fireworks seller licenses as follows:
- 28 (1) For a retailer at a permanent building who devotes fifty
- 29 percent or more of the retailer's retail floor space to the
- 30 sale or display of first-class consumer fireworks, an annual
- 31 fee of one thousand dollars.
- 32 (2) For a retailer at a temporary structure who devotes
- 33 fifty percent or more of the retailer's retail floor space
- 34 to the sale or display of first-class consumer fireworks, an
- 35 annual fee of five hundred dollars.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 (3) For a retailer who devotes less than fifty percent of
2 the retailer's retail floor space to the sale or display of
3 first-class consumer fireworks, an annual fee of four hundred
4 dollars.

5 (4) For a community group that offers for sale, exposes for
6 sale, or sells first-class consumer fireworks, an annual fee
7 of four hundred dollars.

8 (5) For a retailer or community group that offers for sale,
9 exposes for sale, or sells second-class consumer fireworks,
10 but not first-class consumer fireworks, an annual fee of one
11 hundred dollars.

12 *b.* A license issued to a retailer or community group
13 pursuant to paragraph "a", subparagraph (1), (2), (3), or (4),
14 shall allow the licensee to sell both first-class consumer
15 fireworks and second-class consumer fireworks.

16 4. The state fire marshal shall adopt rules to:

17 *a.* Require that any retailer or community group offering
18 for sale at retail any consumer fireworks, as described in APA
19 87-1, chapter 3, shall do so in accordance with the national
20 fire protection association standard 1124, published in the
21 code for the manufacture, transportation, storage, and retail
22 sales of fireworks and pyrotechnic articles, 2006 edition.

23 *b.* Require that a retailer or community group to be issued
24 a license pursuant to this section provide proof of and
25 maintain commercial general liability insurance with minimum
26 per occurrence coverage of at least one million dollars and
27 aggregate coverage of at least two million dollars.

28 *c.* Permit a retailer or community group issued a license
29 pursuant to this section to sell consumer fireworks, as
30 described in APA 87-1, chapter 3, at the following locations
31 as specified:

32 (1) At a permanent building that meets the requirements of
33 paragraph "a", between June 1 and July 8 and between December 10
34 and January 3 each year, all dates inclusive.

35 (2) At a temporary structure that meets the requirements of

LSB 2088SV (2) 87

-3-

gh/nh

3/15

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 paragraph "a" between June 13 and July 8 each year, both dates
2 inclusive.

3 *d.* A retailer or community group shall not transfer consumer
4 fireworks, as described in APA 87-1, chapter 3, to a person who
5 is under eighteen years of age.

6 5. *a.* The state fire marshal shall adopt rules to provide
7 that a person's consumer fireworks seller license may be
8 revoked for the intentional violation of this section. The
9 proceedings for revocation shall be held before the division
10 of the state fire marshal, which may revoke the license or
11 licenses involved as provided in paragraph "b".

12 *b.* (1) If, upon the hearing of the order to show cause,
13 the division of the state fire marshal finds that the licensee
14 intentionally violated this section, then the license or
15 licenses under which the licensed retailer or community group
16 sells first-class consumer fireworks or second-class consumer
17 fireworks, shall be revoked.

18 (2) Judicial review of actions of the division of the
19 state fire marshal may be sought in accordance with the terms
20 of the Iowa administrative procedure Act, chapter 17A. If
21 the licensee has not filed a petition for judicial review in
22 district court, revocation shall date from the thirty-first
23 day following the date of the order of the division of the
24 state fire marshal. If the licensee has filed a petition for
25 judicial review, revocation shall date from the thirty-first
26 day following entry of the order of the district court, if
27 action by the district court is adverse to the licensee.

28 (3) A new license shall not be issued to a person whose
29 license has been revoked, or to the business in control of the
30 premises on which the violation occurred if it is established
31 that the owner of the business had actual knowledge of the
32 violation resulting in the license revocation, for the period
33 of one year following the date of revocation.

34 6. *a.* A consumer fireworks fee fund is created in the
35 state treasury under the control of the state fire marshal.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 Notwithstanding section 12C.7, interest or earnings on
2 moneys in the consumer fireworks fee fund shall be credited
3 to the consumer fireworks fee fund. Moneys in the fund are
4 appropriated to the state fire marshal to be used to fulfill
5 the responsibilities of the state fire marshal for the
6 administration and enforcement of this section and section
7 100.19A and to provide grants pursuant to paragraph "b". The
8 fund shall include the fees collected by the state fire marshal
9 under the fee schedule established pursuant to subsection 3
10 and the fees collected by the state fire marshal under section
11 100.19A for wholesaler registration.

12 *b.* The state fire marshal shall establish a local fire
13 protection and emergency medical service providers grant
14 program to provide grants to local fire protection service
15 providers and local emergency medical service providers to
16 establish or provide fireworks safety education programming
17 to members of the public. The state fire marshal may also
18 provide grants to local fire protection service providers and
19 local emergency medical service providers for the purchase
20 of necessary enforcement, protection, or emergency response
21 equipment related to the sale and use of consumer fireworks in
22 this state.

23 7. The state fire marshal shall adopt rules for the
24 administration of this section.

25 8. A person who violates a provision of this section or a
26 rule adopted pursuant to this section is guilty of a simple
27 misdemeanor.

28 **Sec. 4. NEW SECTION. 100.19A Consumer fireworks wholesaler**
29 **— registration — penalty.**

30 1. For purposes of this section:

31 *a.* "Consumer fireworks" means first-class consumer fireworks
32 and second-class consumer fireworks, as those terms are defined
33 in section 100.19.

34 *b.* "Wholesaler" means a person who engages in the business
35 of selling or distributing consumer fireworks for the purpose

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 of resale in this state.

2 2. The state fire marshal shall adopt rules to require all
3 wholesalers to annually register with the state fire marshal.
4 The state fire marshal may also adopt rules to regulate the
5 storage or transfer of consumer fireworks by wholesalers and to
6 require wholesalers to maintain insurance.

7 3. The state fire marshal shall establish an annual
8 registration fee of one thousand dollars for wholesalers
9 of consumer fireworks within the state. Registration fees
10 collected pursuant to this section shall be deposited in the
11 consumer fireworks fee fund created in section 100.19.

12 4. A person who violates a provision of this section or a
13 rule adopted pursuant to this section is guilty of a simple
14 misdemeanor.

15 Sec. 5. Section 101A.1, subsection 3, Code 2017, is amended
16 to read as follows:

17 3. "*Explosive*" means any chemical compound, mixture
18 or device, the primary or common purpose of which is to
19 function by explosion with substantially instantaneous
20 release of gas and heat, unless such compound, mixture, or
21 device is otherwise specifically classified by the United
22 States department of transportation. The term "*explosive*"
23 includes all materials which are classified as a class 1,
24 division 1.1, 1.2, 1.3, or 1.4 explosive by the United States
25 department of transportation, under [49 C.F.R. §173.50](#), and all
26 materials classified as explosive materials under 18 U.S.C.
27 §841, and includes, but is not limited to, dynamite, black
28 powder, pellet powders, initiating explosives, blasting caps,
29 electric blasting caps, safety fuse, fuse lighters, fuse
30 igniters, squibs, cordeau detonative fuse, instantaneous fuse,
31 igniter cord, igniters, smokeless propellant, cartridges for
32 propellant-actuated power devices, cartridges for industrial
33 guns, and overpressure devices, but does not include "~~fireworks~~"
34 as "*consumer fireworks*", "*display fireworks*", or "*novelties*" as
35 those terms are defined in [section 727.2](#) or ammunition or small

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 arms primers manufactured for use in shotguns, rifles, and
2 pistols. Commercial explosives are those explosives which are
3 intended to be used in commercial or industrial operations.

4 Sec. 6. Section 331.301, Code 2017, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 17. The board of supervisors may by
7 ordinance or resolution prohibit or limit the use of consumer
8 fireworks or display fireworks, as described in section 727.2,
9 if the board determines that the use of such devices would
10 constitute a threat to public safety or private property, or
11 if the board determines that the use of such devices would
12 constitute a nuisance to neighboring landowners.

13 Sec. 7. Section 331.304, subsection 8, Code 2017, is amended
14 to read as follows:

15 8. The board, upon application, may grant permits for the
16 ~~display use~~ of display fireworks as provided in section 727.2.

17 Sec. 8. Section 364.2, Code 2017, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 6. A city council may by ordinance or
20 resolution prohibit or limit the use of consumer fireworks,
21 display fireworks, or novelties, as described in section 727.2.

22 Sec. 9. Section 461A.42, subsection 2, Code 2017, is amended
23 to read as follows:

24 2. The use of consumer fireworks or display fireworks,
25 as defined in section 727.2, in state parks and preserves is
26 prohibited except as authorized by a permit issued by the
27 department. The commission shall establish, by rule adopted
28 pursuant to chapter 17A, a fireworks permit system which
29 authorizes the issuance of a limited number of permits to
30 qualified persons to use or display fireworks in selected state
31 parks and preserves.

32 Sec. 10. Section 727.2, Code 2017, is amended to read as
33 follows:

34 **727.2 Fireworks.**

35 1. Definitions. For purposes of this section:

LSB 2088SV (2) 87
gh/nh

7/15

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 a. "Consumer fireworks" includes first-class consumer
2 fireworks and second-class consumer fireworks as those terms
3 are defined in section 100.19, subsection 1. "Consumer
4 fireworks" does not include novelties enumerated in chapter
5 3 of the American pyrotechnics association's standard 87-1
6 or display fireworks enumerated in chapter 4 of the American
7 pyrotechnics association's standard 87-1.

8 b. The term "fireworks" "Display fireworks" includes any
9 explosive composition, or combination of explosive substances,
10 or article prepared for the purpose of producing a visible
11 or audible effect by combustion, explosion, deflagration,
12 or detonation, and includes blank cartridges, firecrackers,
13 torpedoes, skyrockets, roman candles, or other fireworks of
14 like construction and fireworks containing any explosive or
15 flammable compound, or other device containing any explosive
16 substance. The term "fireworks" "Display fireworks" does not
17 include goldstar producing sparklers on wires which contain
18 no magnesium or chlorate or perchlorate, flitter sparklers
19 in paper tubes that do not exceed one-eighth of an inch in
20 diameter, toy snakes which contain no mercury, or caps used
21 in cap pistols novelties or consumer fireworks enumerated in
22 chapter 3 of the American pyrotechnics association's standard
23 87-1.

24 c. "Novelties" includes all novelties enumerated in chapter
25 3 of the American pyrotechnics association's standard 87-1, and
26 that comply with the labeling regulations promulgated by the
27 United States consumer product safety commission.

28 2. Display fireworks.

29 a. A person, firm, partnership, or corporation who offers
30 for sale, exposes for sale, sells at retail, or uses or
31 explodes any display fireworks, commits a simple misdemeanor-
32 In addition to any other penalties, the punishment imposed
33 for a violation of this section shall include assessment
34 of, punishable by a fine of not less than two hundred fifty
35 dollars. However, the a city council of a city or a county

LSB 2088SV (2) 87

gh/nh

8/15

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 board of supervisors may, upon application in writing, grant a
2 permit for the display of display fireworks by municipalities,
3 fair associations, amusement parks, and other organizations
4 or groups of individuals approved by the city or the county
5 board of supervisors when the display fireworks ~~display~~ will
6 be handled by a competent operator, but no such permit shall
7 be required for the display of display fireworks at the Iowa
8 state fairgrounds by the Iowa state fair board, at incorporated
9 county fairs, or at district fairs receiving state aid. Sales
10 of display fireworks for such display may be made for that
11 purpose only.

12 b. (1) A person who uses or explodes display fireworks
13 while the use of such devices is prohibited or limited by an
14 ordinance or resolution adopted by the county or city in which
15 the firework is used commits a simple misdemeanor, punishable
16 by a fine of not less than two hundred fifty dollars.

17 (2) A person who uses or explodes display fireworks while
18 the use of such devices is suspended by an order of the state
19 fire marshal commits a simple misdemeanor, punishable by a fine
20 of not less than two hundred fifty dollars.

21 3. Consumer fireworks and novelties.

22 a. A person or a firm, partnership, or corporation may
23 possess, use, or explode consumer fireworks in accordance with
24 this subsection and subsection 4.

25 b. A person, firm, partnership, or corporation who sells
26 consumer fireworks to a person who is less than eighteen years
27 of age commits a simple misdemeanor, punishable by a fine of
28 not less than two hundred fifty dollars. A person who is less
29 than eighteen years of age who purchases consumer fireworks
30 commits a simple misdemeanor, punishable by a fine of not less
31 than two hundred fifty dollars.

32 c. (1) A person who uses or explodes consumer fireworks
33 or novelties while the use of such devices is prohibited or
34 limited by an ordinance adopted by the county or city in which
35 the fireworks are used commits a simple misdemeanor, punishable

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 by a fine of not less than two hundred fifty dollars.

2 (2) A person who uses or explodes consumer fireworks or
3 novelties while the use of such devices is suspended by an
4 order of the state fire marshal commits a simple misdemeanor,
5 punishable by a fine of not less than two hundred fifty
6 dollars.

7 4. Limitations.

8 a. A person shall not use or explode consumer fireworks on
9 days other than June 1 through July 8 and December 10 through
10 January 3 of each year, all dates inclusive.

11 b. A person shall not use or explode consumer fireworks at
12 times other than between the hours of 9:00 a.m. and 10:00 p.m.,
13 except that on the following dates consumer fireworks shall not
14 be used at times other than between the hours specified:

15 (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July
16 4 and the Saturdays and Sundays immediately preceding and
17 following July 4.

18 (2) Between the hours of 9:00 a.m. on December 31 and 12:30
19 a.m. on the immediately following day.

20 (3) Between the hours of 9:00 a.m. and 11:00 p.m. on the
21 Saturdays and Sundays immediately preceding and following
22 December 31.

23 c. A person shall not use consumer fireworks on real
24 property other than that person's real property or on the real
25 property of a person who has consented to the use of consumer
26 fireworks on that property.

27 d. A person who violates this subsection commits a simple
28 misdemeanor. A court shall not order imprisonment for
29 violation of this subsection.

30 ~~3-~~ 5. Applicability.

31 a. This section does not prohibit the sale by a resident,
32 dealer, manufacturer, or jobber of such fireworks as are
33 not prohibited by this section, or the sale of any kind of
34 fireworks if they are to be shipped out of the state, or the
35 sale or use of blank cartridges for a show or the theater,

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 or for signal purposes in athletic sports or by railroads
2 or trucks, for signal purposes, or by a recognized military
3 organization.

4 *b.* This section does not apply to any substance or
5 composition prepared and sold for medicinal or fumigation
6 purposes.

7 *c.* Unless specifically provided otherwise, this section does
8 not apply to novelties.

9 DIVISION II
10 RULEMAKING

11 Sec. 11. EMERGENCY RULES. The state fire marshal shall
12 adopt emergency rules under section 17A.4, subsection 3, and
13 section 17A.5, subsection 2, paragraph "b", to implement
14 the provisions of this Act and the rules shall be effective
15 immediately upon filing unless a later date is specified in the
16 rules. Any rules adopted in accordance with this section shall
17 also be published as a notice of intended action as provided
18 in section 17A.4.

19 DIVISION III
20 EFFECTIVE DATE

21 Sec. 12. EFFECTIVE UPON ENACTMENT. This Act, being deemed
22 of immediate importance, takes effect upon enactment.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the regulation of fireworks.

27 The bill provides that the state fire marshal has the duty to
28 enforce all laws, and rules of the department of public safety
29 concerned with the storage, transportation, handling, and use
30 of fireworks.

31 Current law provides that a person, firm, partnership, or
32 corporation who offers for sale, exposes for sale, sells at
33 retail, or uses or explodes any fireworks, commits a simple
34 misdemeanor. Current law, however, also provides that a county
35 board of supervisors or the department of natural resources may

LSB 2088SV (2) 87

-11-

gh/nh

11/15

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 grant a permit for the display of fireworks if the fireworks
2 display will be handled by a competent operator. Current
3 law further provides that the term "fireworks" includes any
4 explosive composition, or combination of explosive substances,
5 or article prepared for the purpose of producing a visible
6 or audible effect by combustion, explosion, deflagration,
7 or detonation, including blank cartridges, firecrackers,
8 torpedoes, skyrockets, roman candles, or other fireworks of
9 like construction and fireworks containing any explosive or
10 flammable compound, or other device containing any explosive
11 substance with limited exceptions.

12 The bill maintains these restrictions for display fireworks
13 and provides that the term "display fireworks" shall not
14 include novelties or consumer fireworks. The bill provides
15 definitions for the terms "novelties" and "consumer fireworks".

16 The bill requires that the state fire marshal establish
17 a consumer fireworks seller license, and requires possession
18 of such a license to legally sell consumer fireworks in this
19 state. The state fire marshal is required to establish a fee
20 schedule for consumer fireworks seller licenses. The bill
21 establishes two classes of consumer fireworks and requires
22 a \$1,000 annual licensing fee for a retailer at a permanent
23 building who devotes 50 percent or more of the retailer's
24 retail floor space to the sale or display of first-class
25 consumer fireworks, and a \$500 annual licensing fee for a
26 retailer at a temporary structure who devotes 50 percent or
27 more the retailer's retail floor space to the sale or display
28 of first-class consumer fireworks. Retailers who devote less
29 than 50 percent of the retailer's retail floor space to the
30 sale or display of first-class consumer fireworks are required
31 to pay an annual licensing fee of \$400. A community group
32 that sells first-class consumer fireworks is required to pay
33 an annual licensing fee of \$400. The bill requires an annual
34 licensing fee of \$100 for retailers or community groups that
35 sell only second-class consumer fireworks.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 The bill requires that the state fire marshal adopt rules
2 to require that licensed retailers and community groups only
3 offer consumer fireworks for sale in accordance with specified
4 industry standards. The bill also requires that retailers
5 and community groups provide proof of and maintain commercial
6 general liability insurance with specified coverage amounts.
7 Under the bill, the state fire marshal is required to adopt
8 rules to permit licensed retailers and community groups to sell
9 consumer fireworks at conforming permanent buildings between
10 June 1 and July 8 and between December 10 and January 3 each
11 year and at conforming temporary structures from June 13 to
12 July 8 each year.

13 The bill also provides for the revocation of a consumer
14 fireworks seller license for the intentional violation of
15 licensing requirements. The bill establishes procedures
16 for the revocation of such licenses and procedures for
17 review for such revocations. The bill also establishes a
18 consumer fireworks fee fund under the control of the state
19 fire marshal. The fund shall consist of the fees collected
20 for the licensing of retailers and community groups and the
21 registration of wholesalers. The fund is required to be used
22 for administration and enforcement of the state fire marshal's
23 consumer fireworks related duties and to provide grants to
24 local fire protection and emergency medical service providers.

25 The bill requires that the state fire marshal adopt rules
26 to require that wholesalers of consumer fireworks annually
27 register with the state fire marshal and allows the state fire
28 marshal to adopt rules related to wholesaler insurance and the
29 storage and transfer of consumer fireworks by wholesalers. The
30 state fire marshal is also required to establish an annual
31 \$1,000 wholesaler registration fee to be deposited in the
32 consumer fireworks fee fund.

33 Under the bill, a violation of a licensing or registration
34 provision established in Code or by rule is considered a simple
35 misdemeanor. A simple misdemeanor is punishable by confinement

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 for no more than 30 days or a fine of at least \$65 but not more
2 than \$625, or by both.

3 The bill provides that a person or a firm, partnership, or
4 corporation may possess consumer fireworks as provided in the
5 bill. The bill provides that a person, firm, partnership, or
6 corporation who sells any consumer firework to a person who
7 is less than 18 years of age commits a simple misdemeanor.
8 A person who is less than 18 years of age who purchases any
9 consumer fireworks commits a simple misdemeanor. A simple
10 misdemeanor is generally punishable by confinement for no more
11 than 30 days or a fine of at least \$65 but not more than \$625 or
12 by both, but the bill provides for a fine of at least \$250.

13 The bill provides that the state fire marshal may order the
14 suspension of the use of consumer fireworks, display fireworks,
15 or novelties if the fire marshal determines that the use of
16 such devices would constitute a threat to public safety. The
17 bill provides that a person who violates such an order by the
18 fire marshal commits a simple misdemeanor, punishable by a fine
19 of at least \$250.

20 The bill provides that a county board of supervisors may
21 adopt an ordinance or resolution to prohibit or limit the
22 use of consumer fireworks or display fireworks if the use of
23 such devices would constitute a threat to public safety or
24 a nuisance. The bill also provides that a city council may
25 adopt an ordinance or resolution to prohibit or limit the use
26 of consumer fireworks, display fireworks, or novelties if the
27 use of such devices would constitute a threat to public safety
28 or a nuisance to landowners. The bill provides that a person
29 who uses fireworks when the use is prohibited or limited by an
30 ordinance in the city or county in which the devices are used
31 commits a simple misdemeanor, punishable by a fine of at least
32 \$250.

33 The bill also provides certain restrictions on the use or
34 explosion of consumer fireworks. The bill prohibits the use
35 or explosion of consumer fireworks on days other than June

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 236

1 1 through July 8 and December 10 through January 3 of each
2 year. The bill prohibits the use or explosion of consumer
3 fireworks at a time other than between the hours of 9:00 a.m.
4 and 10:00 p.m. of those days, except as specified in the
5 bill. The bill further prohibits the use of fireworks by a
6 person on the real property of another person unless the owner
7 of the real property has consented to such use. Under the
8 bill, a violation of these restrictions is considered a simple
9 misdemeanor, provided, however, that a court shall not order
10 imprisonment for such a violation.

11 The bill requires the state fire marshal to adopt emergency
12 rules to implement the provisions of the bill, which shall be
13 effective immediately upon filing.

14 The bill takes effect upon enactment.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 237 - Introduced

SENATE FILE 237
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1033)

A BILL FOR

1 An Act relating to the practice of public accountants.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TL5B 22015V (1) 87
gh/rn/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 237

1 Section 1. Section 542.3, subsection 27, Code 2017, is
2 amended to read as follows:

3 27. "State" means a state of the United States, the District
4 of Columbia, Puerto Rico, the United States Virgin Islands, the
5 Commonwealth of the Northern Mariana Islands, or Guam.

6 Sec. 2. Section 542.6, subsection 1, paragraph b, Code 2017,
7 is amended to read as follows:

8 b. The holder of a certificate issued under this section
9 shall only provide attest services in a certified public
10 accounting firm that is issued a permit under section 542.7,
11 or through a certified public accounting firm with a practice
12 privilege under section 542.20.

13 Sec. 3. Section 542.7, subsection 1, paragraphs a and c,
14 Code 2017, are amended to read as follows:

15 a. A firm must hold a permit issued under this section if
16 the firm ~~performs attest services in this state or for clients~~
17 ~~having a home office in this state or~~ has an office in this
18 state and uses the title "CPAs", "CPA firm", "certified public
19 accountants", or "certified public accounting firm".

20 c. A firm that holds a permit issued under this chapter
21 shall designate to the board the licensee or ~~person with a~~
22 ~~practice privilege under section 542.20~~ nonlicensee who is
23 responsible for the proper licensure of the firm and the
24 firm's compliance with all applicable laws and rules of this
25 state. If such firm has one or more offices in this state, the
26 firm shall designate to the board one or more persons who are
27 licensed under this chapter who are responsible for the proper
28 registration of each Iowa office of the firm and each office's
29 compliance with all applicable laws and rules of this state.

30 Sec. 4. Section 542.8, subsection 12, paragraph b,
31 subparagraph (2), Code 2017, is amended to read as follows:

32 (2) All nonlicensee owners are of good moral character and
33 active participants in the firm or an affiliated entity.

34 Sec. 5. Section 542.8, subsection 12, paragraphs c and d,
35 Code 2017, are amended to read as follows:

LSB 2201SV (1) 87
gh/rn/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 237

1 *c.* An individual licensee or person with a practice
2 privilege under [section 542.20](#) who is responsible for
3 compilation services and signs or authorizes someone to sign
4 the accountant's report ~~on the financial statements~~ on behalf
5 of the firm shall meet the competency requirements set out in
6 nationally recognized professional standards for such services.

7 *d.* An individual licensee or person with a practice
8 privilege under [section 542.20](#) who signs or authorizes someone
9 to sign the accountant's report ~~on the financial statements~~ on
10 behalf of the firm shall meet the competency requirements set
11 out in nationally recognized professional standards for such
12 services.

13 Sec. 6. Section 542.20, subsection 5, Code 2017, is amended
14 to read as follows:

15 5. A certified public accounting firm that is licensed
16 in the state of its principal place of business and is not
17 required to hold an Iowa firm license under [section 542.7](#)
18 may practice in this state without a firm license under this
19 chapter or notice to the board if the firm's practice in this
20 state is performed by individuals who hold a license under this
21 chapter or who practice in conformance with [subsection 6](#), under
22 the following conditions:

23 ~~*a.* The firm shall not perform attest services, other than~~
24 ~~review services, in Iowa or for a client having a home office~~
25 ~~in Iowa.~~

26 ~~*b.* *a.*~~ The firm shall not have an office in Iowa which uses
27 the title "CPAs", "CPA firm", "certified public accountants",
28 or "certified public accounting firm".

29 ~~*c.* The firm may perform compilation or review services only~~
30 ~~if it complies with the ownership and peer review requirements~~
31 ~~of [section 542.7](#).~~

32 ~~*d.* *b.*~~ The firm shall not make any representation tending to
33 falsely indicate that the firm is licensed under [this chapter](#).

34 ~~*e.* *c.*~~ The firm, upon a client's or prospective client's
35 request, shall provide accurate information on the state or

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 237

1 states of licensure, principal place of business, contact
2 information, and manner in which licensure status can be
3 verified.

4 ~~f.~~ d. The firm shall comply with all professional
5 standards, laws, and rules that apply to licensees performing
6 the same professional services.

7 e. The firm shall comply with the ownership and peer review
8 requirements of section 542.7.

9 Sec. 7. Section 542.20, subsection 6, paragraph c, Code
10 2017, is amended to read as follows:

11 c. An individual who provides attest services, ~~other than~~
12 ~~review services,~~ in Iowa or for a client having a home office
13 in Iowa must practice through a certified public accounting
14 firm that is licensed under section 542.7, or through a
15 certified public accounting firm that is validly licensed in
16 the state of its principal place of business and complies with
17 the ownership and peer review requirements of section 542.7.

18 Sec. 8. Section 542.20, subsection 6, paragraph h, Code
19 2017, is amended by striking the paragraph.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill modifies provisions relating to the practice of
24 public accountants.

25 The bill adds the Commonwealth of the Northern Mariana
26 Islands to the definition of "state" in Code section 542.3(27).

27 Code section 542.6(1)(b) provides that certified public
28 accountants (CPAs) may only provide attest services in a firm
29 that is issued a permit under Code section 542.7. The bill
30 allows CPAs to also provide attest services through firms with
31 practice privileges as defined in Code section 542.3(24).

32 Code section 542.7(1)(a) requires a firm to obtain a permit
33 if it performs certain attest services in Iowa or if it has an
34 office in Iowa and uses certain titles. The bill removes a
35 firm performing attest services in Iowa from the type of firms

LSB 2201SV (1) 87
gh/rn/rj

-3-

3/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 237

1 requiring a permit.

2 Code section 542.7(1)(c) requires a firm issued a permit to
3 designate to the board the licensee or person with a practice
4 privilege who is responsible for the firm's licensure and
5 legal compliance. The bill replaces "person with a practice
6 privilege" with "nonlicensee".

7 Code section 542.8(12)(b) lists the conditions required for
8 a licensed public accounting (LPA) firm to have a nonlicensee
9 owner. The bill requires a nonlicensee owner to be of good
10 moral character in addition to all other current requirements.

11 Code section 542.8(12)(c) and (d) requires a licensee or
12 person with a practice privilege who is authorized to sign an
13 accountant's report on financial statements on behalf of an LPA
14 firm to meet certain competency requirements. The bill removes
15 "financial statements" in reference to a report requiring these
16 additional competency requirements.

17 Code section 542.20(5) lists the conditions required for a
18 CPA firm to hold practice privileges without needing to obtain
19 a firm license. The bill removes the condition that a firm
20 cannot perform attest services in Iowa, and the condition that
21 a firm may perform compilation or review services only if it
22 complies with the Iowa ownership and peer review requirements.
23 However, the bill adds as a separate condition that a firm must
24 comply with the Iowa ownership and peer review requirements.

25 Code section 542.20(6) lists the conditions required for a
26 person to hold the practice privileges of a CPA without needing
27 to obtain a certificate. Under Code section 542.20(6)(c),
28 a person who provides attest services in Iowa must practice
29 through an Iowa-licensed CPA firm. The bill broadens the types
30 of attesting services applicable in such condition, and allows
31 a person to also practice through a CPA firm that is validly
32 licensed in the state of its principal place of business and
33 complies with the Iowa ownership and peer review requirements.
34 The bill also removes the condition that a person who provides
35 reviews of certain financial statements must provide such

LSB 2201SV (1) 87
gh/rn/rj

4/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 237

1 services through a CPA firm that is validly licensed in the
2 state of its principal place of business and complies with the
3 Iowa ownership and peer review requirements.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 238 - Introduced

SENATE FILE 238
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SF 83)

A BILL FOR

1 An Act relating to the criminal offense of sexual exploitation
2 by a school employee, and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1390SV (2) 87
kh/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 238

1 Section 1. Section 709.15, subsection 1, paragraph f, Code
2 2017, is amended by striking the paragraph and inserting in
3 lieu thereof the following:

4 f. (1) "School employee" means any of the following, except
5 as provided in subparagraph (2):

6 (a) A person who holds a license, certificate,
7 authorization, or statement of professional recognition issued
8 under chapter 272.

9 (b) A person employed by a school district full-time,
10 part-time, or as a substitute.

11 (c) A person who performs services as a volunteer for a
12 school district and who has direct supervisory authority over
13 the student with whom the person engages in conduct prohibited
14 under subsection 3, paragraph "a".

15 (d) A person who provides services under a contract for such
16 services to a school district and who has direct supervisory
17 authority over the student with whom the person engages in
18 conduct prohibited under subsection 3, paragraph "a".

19 (2) "School employee" does not include a student enrolled
20 in the school district.

21 Sec. 2. Section 709.15, subsection 3, Code 2017, is amended
22 by adding the following new paragraph:

23 NEW PARAGRAPH. c. The provisions of this subsection do
24 not apply to a person who is employed by, volunteers for,
25 or provides services under a contract for such services to a
26 school district, if the student is not enrolled in the same
27 school district that employs the person or for which the person
28 volunteers or provides contracted services, and the person
29 does not meet the requirements of subsection 1, paragraph "f",
30 subparagraph (1), subparagraph division (a).

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill expands the Code provision that establishes
35 the criminal offense of sexual exploitation by a school

LSB 1390SV (2) 87

-1-

kh/nh

1/2

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 238

1 employee to include a person who holds a license, certificate,
2 authorization, or statement of professional recognition issued
3 by the board of educational examiners; a person employed by
4 a school district full-time, part-time, or as a substitute;
5 and a person who performs services as a volunteer or contract
6 employee for a school district and who has direct supervisory
7 authority over the student with whom the person engages in
8 prohibited conduct.

9 Under the bill, "school employee" does not include a student
10 enrolled in a school district.

11 Currently, a "school employee" is defined to include any
12 practitioner or coach who is licensed or authorized by the
13 board of educational examiners. The current definition does
14 not limit employment to a public or nonpublic school.

15 The bill makes the provisions relating to sexual
16 exploitation by a school employee inapplicable to a person who
17 is employed by, volunteers for, or provides services under a
18 contract for such services to a school district if the student
19 is not enrolled in the same school district that employs
20 the person or for which the person volunteers or provides
21 contracted services, and the person does not hold a license,
22 certificate, authorization, or statement of professional
23 recognition issued by the board of educational examiners.

24 A person who commits sexual exploitation by a school
25 employee in violation of Code section 709.15(3) commits either
26 an aggravated misdemeanor, which is punishable by confinement
27 for no more than two years and a fine of at least \$625 but not
28 more than \$6,250; or a class "D" felony, which is punishable
29 by confinement for no more than five years and a fine of at
30 least \$750 but not more than \$7,500. The person's actions also
31 constitute unprofessional and unethical conduct that may result
32 in disciplinary action by the board of educational examiners
33 and the person must register as a sex offender.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 239 - Introduced

SENATE FILE 239
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 1017)

A BILL FOR

1 An Act relating to disciplinary actions taken against a
2 licensed school employee required to be reported to the
3 board of educational examiners.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1134SV (2) 87
kh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 239

1 Section 1. Section 272.15, subsection 1, paragraph a,
2 subparagraph (1), Code 2017, is amended by adding the following
3 new subparagraph division:

4 NEW SUBPARAGRAPH DIVISION. (d) Being on school premises
5 or at a school-sponsored activity involving students while
6 under the influence of, possessing, using, or consuming illegal
7 drugs, prescription drugs as defined in section 155A.3 that are
8 not prescribed for the licensed school employee's own use, or
9 alcohol. The mere possession of prescription drugs prescribed
10 for a member of the licensed school employee's household does
11 not constitute reportable conduct under this paragraph "a".

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill adds to the list of disciplinary actions taken
16 against a licensed school employee that are required under
17 Code section 272.15 to be reported to the board of educational
18 examiners.

19 Currently, the boards of directors of school districts
20 and area education agencies, the superintendent of a school
21 district, the chief administrator of an area education agency,
22 and the authorities in charge of an accredited nonpublic school
23 must report to the board of educational examiners any instance
24 of disciplinary action taken against a licensed school employee
25 by such boards, administrators, and authorities, for certain
26 conduct specified in the Code section. The bill adds to the
27 list being on school premises or at a school-sponsored activity
28 involving students while under the influence of, possessing,
29 using, or consuming illegal drugs, prescription drugs that are
30 not prescribed for the employee's own use, or alcohol. The
31 mere possession of drugs prescribed for a household member,
32 however, does not constitute reportable conduct.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 240 - Introduced

SENATE FILE 240
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 1001)

A BILL FOR

1 An Act relating to statewide assessments of student progress
2 utilizing core academic indicators, and including effective
3 date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1479SV (3) 87
kh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 240

1 Section 1. Section 256.7, subsection 21, paragraph b,
2 subparagraphs (2) and (3), Code 2017, are amended by striking
3 the subparagraphs.

4 Sec. 2. DEPARTMENT OF EDUCATION — STATEWIDE ASSESSMENT
5 REQUEST FOR PROPOSALS.

6 1. The department of education shall issue a request
7 for proposals for the selection of a statewide assessment
8 of student progress to be administered in the school year
9 beginning July 1, 2018, and each succeeding school year.
10 The assessment shall measure individual student growth and
11 be aligned to the Iowa core academic standards for grades
12 three through eight and at least one high school grade. The
13 assessment shall be capable of measuring student performance
14 in English language arts, including reading and writing;
15 mathematics; and science. The assessment shall be available in
16 both paper-and-pencil and computer-based formats. Proposals
17 incapable of assessing performance in English language arts,
18 including reading and writing, mathematics, and science
19 shall not be considered. Potential vendors or providers may
20 collaborate to meet the requirements of this subsection.

21 2. In evaluating the proposals, the department shall
22 only consider the feasibility of implementation by school
23 districts; the costs to school districts and the state in
24 providing and administering the statewide assessment and
25 the technical support necessary to administer the statewide
26 assessment; the costs of acquiring the infrastructure necessary
27 for implementing technology readiness in all of Iowa's school
28 districts, including technology required for accommodations;
29 the degree to which the submission is aligned with the Iowa
30 core academic standards; the ability of the assessment to
31 measure student growth and student proficiency; the ability of
32 the assessment to meet the requirements of the federal Every
33 Student Succeeds Act, Pub. L. No. 114-95; and the instructional
34 time required to conduct the statewide assessment.

35 3. The department of education shall issue the request for

LSB 1479SV (3) 87

-1-

kh/rj

1/3

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 240

1 proposals by April 30, 2017, and shall select the assessment
2 that best meets the criteria established under this section in
3 time for the assessment to be administered as provided in this
4 section. The department shall adopt rules establishing that
5 students enrolled in school districts in grades three through
6 eight and at least one high school grade shall be administered,
7 during the last quarter of each school year, the assessment
8 selected by the department in accordance with this section. An
9 accredited nonpublic school may administer the assessment to
10 students enrolled in the accredited nonpublic school.

11 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
12 immediate importance, takes effect upon enactment.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 Current law requires that the state board of education
17 provide in rule for a set of core academic indicators in
18 mathematics and reading in grades 4, 8, and 11, and for science
19 in grades 8 and 11, and that the Iowa assessments, used by
20 school districts in the school year beginning July 1, 2011, be
21 used for this purpose.

22 This bill strikes a requirement that the state board's
23 rules provide that for the school year beginning July 1,
24 2017, all students enrolled in school districts in grades 3
25 through 11 shall be administered an assessment during the last
26 quarter of the school year that assesses student progress on
27 the core academic indicators. The requirement also provides
28 that the assessment used after July 1, 2017, at a minimum
29 must be aligned with the Iowa common core standards in both
30 content and rigor; accurately describe student achievement and
31 growth for purposes of the school, the school district, and
32 state accountability systems; and provide valid, reliable, and
33 fair measures of student progress toward college or career
34 readiness.

35 The bill requires the department of education to issue

LSB 1479SV (3) 87

-2-

kh/rj

2/3

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 240

1 a request for proposals for the selection of a statewide
2 assessment of student progress to be administered in the spring
3 of 2019, and annually thereafter. The assessment shall measure
4 individual student growth and be aligned to the Iowa core
5 academic standards for grades three through eight and at least
6 one high school grade, and be capable of measuring student
7 performance in English language arts, including reading and
8 writing; mathematics; and science. Assessments incapable of
9 assessing all of those subjects shall not be considered. The
10 assessment shall be available in both paper-and-pencil and
11 computer-based formats. Potential vendors or providers may
12 collaborate to meet the requirements.

13 In evaluating the proposals, the department shall consider
14 the feasibility of implementation by school districts; the
15 costs to school districts and the state; the assessment's
16 alignment with the Iowa core academic standards; the ability
17 of the assessment to measure student growth and proficiency;
18 the ability of the assessment to meet the requirements of the
19 federal Every Student Succeeds Act; and the instructional time
20 required.

21 The department of education must issue the request
22 for proposals by April 30, 2017, and adopt rules for the
23 administration of the assessment selected by the department.
24 An accredited nonpublic school may administer the assessment to
25 its students.

26 The bill also strikes a Code provision that provides for
27 an assessment task force. The Iowa assessment task force
28 submitted its findings and recommendations in a report to the
29 general assembly on December 31, 2014.

30 The bill takes effect upon enactment.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 241 - Introduced

SENATE FILE 241
BY DAWSON

A BILL FOR

1 An Act relating to law enforcement officers including the
2 establishment of a law enforcement officer privilege and the
3 confidentiality of certain law enforcement officer personnel
4 records.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1540XS (12) 87
jm/rh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 241

1 Section 1. Section 22.7, subsection 5, Code 2017, is amended
2 to read as follows:

3 5. Peace officers' investigative reports, privileged
4 records or information specified in section 80G.1, and specific
5 portions of electronic mail and telephone billing records of
6 law enforcement agencies if that information is part of an
7 ongoing investigation, except where disclosure is authorized
8 elsewhere in this Code. However, the date, time, specific
9 location, and immediate facts and circumstances surrounding a
10 crime or incident shall not be kept confidential under this
11 section, except in those unusual circumstances where disclosure
12 would plainly and seriously jeopardize an investigation or pose
13 a clear and present danger to the safety of an individual.
14 Specific portions of electronic mail and telephone billing
15 records may only be kept confidential under this subsection if
16 the length of time prescribed for commencement of prosecution
17 or the finding of an indictment or information under the
18 statute of limitations applicable to the crime that is under
19 investigation has not expired.

20 Sec. 2. Section 22.7, subsection 11, paragraph a,
21 unnumbered paragraph 1, Code 2017, is amended to read as
22 follows:

23 Personal information in confidential personnel records
24 of government bodies relating to identified or identifiable
25 individuals who are officials, officers, or employees of the
26 government bodies. However, the following information relating
27 to such individuals contained in personnel records shall be
28 public records, except as otherwise provided in section 80G.3:

29 Sec. 3. NEW SECTION. 80G.1 Definitions.

30 As used in this section except as the context otherwise
31 requires:

32 1. "Compensation" means the same as defined in section 22.7,
33 subsection 11.

34 2. "Law enforcement officer" means the same as "peace
35 officer" as defined in section 801.4.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 241

1 3. *“Undercover law enforcement officer”* means a law
2 enforcement officer who is actively involved with and assigned
3 to investigate alleged violations of state or federal law and
4 whose identity as a law enforcement officer is concealed while
5 conducting an investigation.

6 Sec. 4. NEW SECTION. 80G.2 Law enforcement officer —
7 **privilege — confidentiality.**

8 1. *a.* A law enforcement officer shall not be examined or
9 be required to give evidence in any criminal proceeding that
10 requires the disclosure of any records or information relating
11 to any of the following:

12 (1) Techniques and procedures used by law enforcement
13 officers to lawfully observe, hear, or monitor information
14 related to activity that appears to be criminal, unless such
15 techniques and procedures are disclosed in a public forum or
16 are disclosed voluntarily by the law enforcement officer or the
17 agency that employs the law enforcement officer.

18 (2) Identification documents or other documents necessary
19 to conduct a lawful undercover criminal investigation.

20 (3) Personal identifying information about the law
21 enforcement officer or immediate family member of the law
22 enforcement officer, or other information unrelated to the law
23 enforcement officer’s professional duties which could be used
24 to threaten, harm, or intimidate the law enforcement officer
25 or immediate family member of the law enforcement officer,
26 or other information that could reasonably be construed to
27 constitute an unwarranted invasion of privacy of the law
28 enforcement officer or immediate family member of the law
29 enforcement officer. Personal information that is knowingly
30 and voluntarily disclosed by the law enforcement officer or
31 immediate family member of the law enforcement officer may be
32 redisseminated.

33 *b.* A law enforcement officer who is called to testify shall
34 not disclose information that is subject to nondisclosure as a
35 result of a court order, statute, contract, or a condition or

LSB 1540XS (12) 87

-2-

jm/rh/rj

2/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 241

1 requirement of a grant.

2 2. In determining whether nondisclosure of confidential
3 or privileged information about a law enforcement officer
4 may affect a defendant's right to present a defense, the
5 court shall make findings on the record regarding the impact
6 of disclosure on the personal safety of the law enforcement
7 officer or immediate family member of the law enforcement
8 officer if the evidence is disclosed, the probative value
9 of the confidential or privileged information about the
10 law enforcement officer, the impact of disclosure on public
11 safety, the potential for partial or limited disclosure of the
12 privileged information, and the defendant's constitutional
13 right to present a defense. Any privileged information that is
14 admitted for purposes of a pretrial hearing or a preliminary
15 admissibility determination shall remain confidential.

16 Sec. 5. NEW SECTION. 80G.3 Personnel information —
17 undercover law enforcement officer — confidentiality.

18 The name, photograph, compensation and benefit records, time
19 records, residential address, or any other personal identifying
20 information of an undercover law enforcement officer shall be
21 confidential while the undercover law enforcement officer is
22 actively involved with or assigned to investigate violations
23 of state or federal law.

24 **EXPLANATION**

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to law enforcement officers including the
28 establishment of a law enforcement officer privilege and the
29 confidentiality of certain law enforcement officer personnel
30 records.

31 The bill defines a "law enforcement officer" to mean the same
32 as peace officer as defined in Code section 801.4.

33 Under the bill, a law enforcement officer shall not be
34 examined or be required to give evidence in any criminal
35 proceeding that requires the disclosure of any records or

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 241

1 information relating to any of the following: techniques
2 and procedures used by law enforcement officers to lawfully
3 observe, hear, or monitor information related to criminal
4 activity, unless such techniques and procedures are disclosed
5 in a public forum or are disclosed voluntarily by the law
6 enforcement officer or the agency that employs the law
7 enforcement officer; identification documents necessary to
8 conduct a lawful undercover criminal investigation; or personal
9 identifying information about the law enforcement officer or
10 immediate family member of the law enforcement officer, or
11 other information unrelated to the law enforcement officer's
12 professional duties which could be used to threaten, harm, or
13 intimidate the law enforcement officer or immediate family
14 member of the law enforcement officer, or other information
15 that could reasonably be construed to constitute an unwarranted
16 invasion of privacy of the law enforcement officer or immediate
17 family member of the law enforcement officer. Personal
18 information that is knowingly and voluntarily disclosed by the
19 law enforcement officer or immediate family member of the law
20 enforcement officer may be disseminated under the bill. The
21 bill also provides that a law enforcement officer who is called
22 to testify shall not disclose information that is subject to
23 nondisclosure as a result of a court order, statute, contract,
24 or a condition or requirement of a grant.

25 The bill provides that in determining whether nondisclosure
26 of confidential or privileged information about a law
27 enforcement officer may affect a defendant's right to present a
28 defense, the court shall make findings on the record regarding
29 the impact of disclosure on the personal safety of the law
30 enforcement officer or immediate family member of the law
31 enforcement officer if the evidence is disclosed, the probative
32 value of the confidential or privileged information about the
33 law enforcement officer, the impact of disclosure on public
34 safety, the potential for partial or limited disclosure of the
35 privileged information, and the defendant's constitutional

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 241

1 right to present a defense. Any privileged information that is
2 admitted for purposes of a pretrial hearing or a preliminary
3 admissibility determination shall remain confidential under the
4 bill.

5 The bill defines "undercover law enforcement officer" to
6 mean a law enforcement officer who is actively involved with
7 and assigned to investigate alleged violations of state or
8 federal law and whose identity as a law enforcement officer is
9 concealed while conducting an investigation.

10 The bill provides that the name, photograph, compensation
11 and benefit records, time records, residential address, or any
12 other personal identifying information of an undercover law
13 enforcement officer shall be confidential while the undercover
14 law enforcement officer is actively involved with or assigned
15 to investigate violations of state or federal law.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 242 - Introduced

SENATE FILE 242

BY ALLEN

A BILL FOR

1 An Act relating to child in need of assistance and child abuse
2 cases involving certain drugs and other substances.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2018XS (4) 87
rh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 242

1 Section 1. Section 232.2, subsection 6, paragraph p, Code
2 2017, is amended to read as follows:

3 *p.* Whose parent, guardian, or custodian, or other adult
4 member of the household in which a child resides does any
5 of the following: unlawfully uses, possesses, manufactures,
6 cultivates, or distributes a dangerous substance in the
7 presence of a child; or knowingly allows such use, possession,
8 manufacture, cultivation, or distribution by another person
9 in the presence of a child; or in the presence of a child
10 possesses a product containing ephedrine, its salts, optical
11 isomers, salts of optical isomers, or pseudoephedrine, its
12 salts, optical isomers, salts of optical isomers, with the
13 intent to use the product as a precursor or an intermediary to
14 a dangerous substance in the presence of a child; or unlawfully
15 uses, possesses, manufactures, cultivates, or distributes a
16 dangerous substance in a child's home, on the premises, or in a
17 motor vehicle located on the premises.

18 (1) For the purposes of this paragraph, "*in the presence*
19 *of a child*" means in the physical presence of a child during
20 the manufacture or possession, the manufacture or possession
21 occurred in a child's home, on the premises, or in a motor
22 vehicle located on the premises, or the manufacture or
23 possession occurred or occurring under other circumstances
24 in which a reasonably prudent person would know that the
25 use, possession, manufacture or possession, cultivation, or
26 distribution may be seen, smelled, or heard by a child.

27 (2) For the purposes of this paragraph, "*dangerous*
28 *substance*" means any of the following:

29 (a) Amphetamine, its salts, isomers, or salts of its
30 isomers.

31 (b) Methamphetamine, its salts, isomers, or salts of its
32 isomers.

33 (c) A chemical or combination of chemicals that poses a
34 reasonable risk of causing an explosion, fire, or other danger
35 to the life or health of persons who are in the vicinity while

LSB 2018XS (4) 87

-1-

rh/rj

1/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 242

1 the chemical or combination of chemicals is used or is intended
2 to be used in any of the following:

3 (i) The process of manufacturing an illegal or controlled
4 substance.

5 (ii) As a precursor in the manufacturing of an illegal or
6 controlled substance.

7 (iii) As an intermediary in the manufacturing of an illegal
8 or controlled substance.

9 (d) Cocaine, its salts, isomers, salts of its isomers, or
10 derivatives.

11 (e) Heroin, its salts, isomers, salts of its isomers, or
12 derivatives.

13 (f) Opium and opiate, and any salt, compound, derivative, or
14 preparation of opium or opiate.

15 Sec. 2. Section 232.68, subsection 2, paragraph a,
16 subparagraph (7), Code 2017, is amended to read as follows:

17 (7) The person responsible for the care of a child ~~has,~~
18 in the presence of ~~the~~ a child, as defined in section 232.2,
19 subsection 6, paragraph ~~`p`~~, ~~manufactured~~ unlawfully uses,
20 possesses, manufactures, cultivates, or distributes a dangerous
21 substance, as defined in section 232.2, subsection 6, paragraph
22 ~~`p`~~, ~~or in the presence of the child~~ knowingly allows such
23 use, possession, manufacture, cultivation, or distribution
24 by another person in the presence of a child; possesses a
25 ~~product containing ephedrine, its salts, optical isomers, salts~~
26 ~~of optical isomers, or pseudoephedrine, its salts, optical~~
27 ~~isomers, salts of optical isomers,~~ with the intent to use
28 the product as a precursor or an intermediary to a dangerous
29 substance in the presence of a child; or unlawfully uses,
30 possesses, manufactures, cultivates, or distributes a dangerous
31 substance in a child's home, on the premises, or in a motor
32 vehicle located on the premises.

33 Sec. 3. Section 232.77, subsection 2, Code 2017, is amended
34 to read as follows:

35 2. a. If a health practitioner discovers in a child

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 242

1 physical or behavioral symptoms of the effects of exposure
2 to cocaine, heroin, amphetamine, methamphetamine, or other
3 illegal drugs, or combinations or derivatives thereof, which
4 were not prescribed by a health practitioner, or if the health
5 practitioner has determined through examination of the natural
6 mother of the child that the child was exposed in utero, the
7 health practitioner may perform or cause to be performed a
8 medically relevant test, as defined in [section 232.73](#), on the
9 child. The practitioner shall report any positive results of
10 such a test on the child to the department. The department
11 shall begin an assessment pursuant to [section 232.71B](#) upon
12 receipt of such a report. A positive test result obtained
13 prior to the birth of a child shall not be used for the criminal
14 prosecution of a parent for acts and omissions resulting in
15 intrauterine exposure of the child to an illegal drug.

16 b. If a health practitioner involved in the delivery or
17 care of a newborn or infant discovers in the newborn or infant
18 physical or behavioral symptoms that are consistent with the
19 effects of prenatal drug exposure or a fetal alcohol spectrum
20 disorder, the health practitioner shall report such information
21 to the department in a manner prescribed by rule of the
22 department.

23

EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to certain drugs and other substances and
27 child in need of assistance and child abuse.

28 The bill amends the definition of a child in need of
29 assistance to provide that an unmarried child whose parent,
30 guardian, custodian, or other adult member of the child's
31 household who unlawfully uses, possesses, manufactures,
32 cultivates, or distributes a dangerous substance in the
33 presence of a child or knowingly allows such activities
34 by another person in the presence of a child; possesses a
35 product with the intent to use the product as a precursor or

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 242

1 an intermediary to a dangerous substance in the presence of a
2 child; or unlawfully uses, possesses, manufactures, cultivates,
3 or distributes a dangerous substance in a child's home, on the
4 premises, or in a motor vehicle located on the premises, may be
5 the subject of a child in need of assistance petition.

6 The bill amends the definition of child abuse to provide that
7 a person responsible for the care of a child who unlawfully
8 uses, possesses, manufactures, cultivates, or distributes a
9 dangerous substance in the presence of a child or knowingly
10 allows such activities by another person in the presence of a
11 child; possesses a product with the intent to use the product
12 as a precursor or an intermediary to a dangerous substance
13 in the presence of a child; or unlawfully uses, possesses,
14 manufactures, cultivates, or distributes a dangerous substance
15 in a child's home, on the premises, or in a motor vehicle
16 located on the premises may be the subject of an allegation of
17 child abuse.

18 The bill amends the definitions of "in the presence of a
19 child" and "dangerous substance" for purposes of both child
20 in need of assistance and child abuse definitions. "In
21 the presence of a child" means in the physical presence of
22 a child or occurring under other circumstances in which a
23 reasonably prudent person would know that the use, possession,
24 manufacture, cultivation, or distribution may be seen, smelled,
25 or heard by a child. The bill includes cocaine, heroin, and
26 opium or opiates in the list of dangerous substances.

27 The bill requires a health practitioner involved in the
28 delivery or care of a newborn or infant, who discovers in the
29 newborn or infant physical or behavioral symptoms that are
30 consistent with the effects of prenatal drug exposure or a
31 fetal alcohol spectrum disorder, to report such information
32 to the department of human services in a manner prescribed by
33 rule of the department. "Health practitioner" is defined in
34 Code section 232.2 to mean a licensed physician or surgeon,
35 osteopathic physician or surgeon, dentist, optometrist,

LSB 2018XS (4) 87
rh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 242

1 podiatric physician, or chiropractor, a resident or intern
2 of any such profession, and any registered nurse or licensed
3 practical nurse. This reporting requirement is required under
4 the federal Child Abuse Prevention and Treatment Act (CAPTA).

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate File 243 - Introduced

SENATE FILE 243
BY PETERSEN

A BILL FOR

1 An Act extending the limitations of certain criminal actions
2 committed on or with minors, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1641XS (15) 87
jm/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 243

1 Section 1. Section 802.2, subsection 1, Code 2017, is
2 amended to read as follows:

3 1. An information or indictment for sexual abuse in the
4 first, second, or third degree committed on or with a person
5 who is under the age of eighteen years ~~shall~~ may be found
6 ~~within ten years after the person upon whom the offense is~~
7 ~~committed attains eighteen years of age, or if the person~~
8 ~~against whom the information or indictment is sought is~~
9 ~~identified through the use of a DNA profile, an information or~~
10 ~~indictment shall be found within three years from the date the~~
11 ~~person is identified by the person's DNA profile, whichever is~~
12 later at any time after the commission of the offense.

13 Sec. 2. Section 802.2A, Code 2017, is amended to read as
14 follows:

15 **802.2A Incest — sexual exploitation by a counselor,**
16 **therapist, or school employee.**

17 1. An information or indictment for incest under section
18 726.2 committed on or with a person who is under the age of
19 eighteen ~~shall~~ may be found ~~within ten years after the person~~
20 ~~upon whom the offense is committed attains eighteen years of~~
21 ~~age. An information or indictment for any other incest shall~~
22 ~~be found within ten years after its~~ at any time after the
23 commission of the offense.

24 2. An indictment or information for sexual exploitation by
25 a counselor, therapist, or school employee under **section 709.15**
26 committed on or with a person who is under the age of eighteen
27 ~~shall~~ may be found ~~within ten years after the person upon whom~~
28 ~~the offense is committed attains eighteen years of age~~ at any
29 time after the commission of the offense. An information or
30 indictment for any other sexual exploitation shall be found
31 within ten years of the date the victim was last treated by the
32 counselor or therapist, or within ten years of the date the
33 victim was enrolled in or attended the school.

34 Sec. 3. Section 802.2B, unnumbered paragraph 1, Code 2017,
35 is amended to read as follows:

LSB 1641XS (15) 87

-1-

jm/rj

1/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 243

1 An information or indictment for the following offenses
2 committed on or with a person who is under the age of eighteen
3 years shall may be found within ~~ten years after the person upon~~
4 ~~whom the offense is committed attains eighteen years of age,~~
5 ~~or if the person against whom the information or indictment~~
6 ~~is sought is identified through the use of a DNA profile, an~~
7 ~~information or indictment shall be found within three years~~
8 ~~from the date the person is identified by the person's DNA~~
9 ~~profile, whichever is later~~ at any time after the commission
10 of the offense:

11 Sec. 4. Section 802.2C, Code 2017, is amended to read as
12 follows:

13 **802.2C Kidnapping.**

14 An information or indictment for kidnapping in the first,
15 second, or third degree committed on or with a person who is
16 under the age of eighteen years shall may be found within ~~ten~~
17 ~~years after the person upon whom the offense is committed~~
18 ~~attains eighteen years of age, or if the person against whom~~
19 ~~the information or indictment is sought is identified through~~
20 ~~the use of a DNA profile, an information or indictment shall be~~
21 ~~found within three years from the date the person is identified~~
22 ~~by the person's DNA profile, whichever is later~~ commenced at
23 any time after the commission of the offense.

24 Sec. 5. Section 802.2D, Code 2017, is amended to read as
25 follows:

26 **802.2D Human trafficking.**

27 An information or indictment for human trafficking in
28 violation of [section 710A.2](#), committed on or with a person who
29 is under the age of eighteen years shall may be found within
30 ~~ten years after the person upon whom the offense is committed~~
31 ~~attains eighteen years of age, or if the person against whom~~
32 ~~the information or indictment is sought is identified through~~
33 ~~the use of a DNA profile, an information or indictment shall be~~
34 ~~found within three years from the date the person is identified~~
35 ~~by the person's DNA profile, whichever is later~~ at any time

LSB 1641XS (15) 87

-2-

jm/rj

2/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 243

1 after the commission of the offense.

2 Sec. 6. Section 802.10, subsection 3, Code 2017, is amended
3 to read as follows:

4 3. However, notwithstanding subsection 2, an indictment or
5 information shall be found against a person within three years
6 from the date the person is identified by the person's DNA
7 profile. ~~If the action involves sexual abuse, another sexual~~
8 ~~offense, kidnapping, or human trafficking, the indictment~~
9 ~~or information shall be found as provided in section 802.2,~~
10 ~~802.2B, 802.2C, or 802.2D, if the person is identified by the~~
11 ~~person's DNA profile.~~

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill extends the limitations of certain criminal
16 actions (statute of limitations) committed on or with minors.

17 The amendment to Code section 802.2 provides that an
18 information or indictment for sexual abuse in the first,
19 second, or third degree committed on or with a person who
20 is under the age of 18 years may be found at any time after
21 commission of the offense. Under current law, an information
22 or indictment for a sexual abuse offense committed on or with
23 a person who is under 18 years of age shall be found within
24 10 years after the person upon whom the offense is committed
25 attains 18 years of age, or if the person against whom the
26 information or indictment is sought is identified through the
27 use of a DNA profile, an information or indictment shall be
28 found within three years from the date the person is identified
29 by the person's DNA profile, whichever is later.

30 The amendment to Code section 802.2A provides that an
31 information or indictment for incest under Code section 726.2
32 committed on or with a person who is under the age of 18 may
33 be found at any time after commission of the offense. Under
34 current law, an information or indictment for incest shall be
35 found within 10 years after the person upon whom the offense

LSB 1641XS (15) 87

-3-

jm/rj

3/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 243

1 is committed attains 18 years of age. For other incest
2 offenses committed upon a person 18 years of age or older,
3 the information or indictment shall be found within 10 years
4 after the commission of the offense. If the person against
5 whom the information or indictment is sought is identified
6 only through the use of a DNA profile, the limitation shall be
7 tolled. However, an information or indictment shall be found
8 within three years from the date the person is identified by
9 the person's DNA profile.

10 The amendment to Code section 802.2A also provides that
11 an information or indictment for sexual exploitation by a
12 counselor, therapist, or school employee under Code section
13 709.15 committed on or with a person who is under the age of
14 18 may be found at any time after commission of the offense.
15 Under current law, an information or indictment for sexual
16 exploitation by a counselor, therapist, or school employee
17 shall be found within 10 years after the person upon whom the
18 offense is committed attains 18 years of age. For other sexual
19 exploitation by a counselor, therapist, or school employee
20 offenses committed upon a person 18 years of age or older, the
21 information or indictment shall be found within 10 years of the
22 date the person was last treated by the counselor or therapist,
23 or within 10 years of the date the person was enrolled in or
24 attended the school.

25 The amendment to Code section 802.2B provides that an
26 information or indictment may be commenced at any time after
27 the commission of any of the following offenses if the offense
28 is committed on or with a person under the age of 18: sexual
29 abuse in the first degree in violation of Code section 709.2;
30 sexual abuse in the second degree in violation of Code section
31 709.3; sexual abuse in the third degree in violation of Code
32 section 709.4; lascivious acts with a child in violation of
33 Code section 709.8; assault with intent to commit sexual abuse
34 in violation of Code section 709.11; indecent contact with a
35 child in violation of Code section 709.12; lascivious conduct

LSB 1641XS (15) 87

-4-

jm/rj

4/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 243

1 with a minor in violation of Code section 709.14; sexual
2 exploitation by a counselor, therapist, or school employee in
3 violation of Code section 709.15; sexual misconduct with a
4 juvenile in violation of Code section 709.16, subsection 2;
5 kidnapping in the first degree in violation of Code section
6 710.2; kidnapping in the second degree in violation of Code
7 section 710.3; kidnapping in the third degree in violation of
8 Code section 710.4; human trafficking in violation of Code
9 section 710A.2; incest in violation of Code section 726.2; and
10 sexual exploitation of a minor in violation of Code section
11 728.12. Under current law for the preceding offenses, an
12 information or indictment committed on or with a person who
13 is under 18 years of age shall be found within 10 years after
14 the person upon whom the offense is committed attains 18 years
15 of age, or if the person against whom the information or
16 indictment is sought is identified through the use of a DNA
17 profile, an information or indictment shall be found within
18 three years from the date the person is identified by the
19 person's DNA profile, whichever is later.

20 The amendment to Code section 802.2C provides that an
21 information or indictment for kidnapping in the first, second,
22 or third degree committed on or with a person who is under the
23 age of 18 years may be found at any time after commission of
24 the offense. Under current law for kidnapping offenses, the
25 information or indictment for an offense committed on or with
26 a person who is under the age of 18 years of age, shall be
27 found within 10 years after the person upon whom the offense
28 is committed attains 18 years of age, or if the person against
29 whom the information or indictment is sought is identified
30 through the use of a DNA profile, an information or indictment
31 shall be found within three years from the date the person is
32 identified by the person's DNA profile, whichever is later.

33 The amendment to Code section 802.2D provides that an
34 information or indictment for human trafficking in violation of
35 Code section 710A.2, committed on or with a person who is under

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. 243

1 the age of 18 years may be found at any time after commission of
2 the offense. Under current law for human trafficking offenses,
3 the information or indictment for an offense committed on or
4 with a person who is under the age of 18 years of age, shall be
5 found within 10 years after the person upon whom the offense
6 is committed attains 18 years of age, or if the person against
7 whom the information or indictment is sought is identified
8 through the use of a DNA profile, an information or indictment
9 shall be found within three years from the date the person is
10 identified by the person's DNA profile, whichever is later.
11 The amendment to Code section 802.10 makes conforming
12 changes to comply with the changes in the bill.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1084 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

A BILL FOR

1 An Act requiring the master list for juror service to be
2 updated annually using an electronic data processing system
3 and eliminating jury commissions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1281XD (6) 87
jh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 Section 1. Section 331.322, subsection 16, Code 2017, is
2 amended by striking the subsection.

3 Sec. 2. Section 331.502, subsections 34 and 36, Code 2017,
4 are amended by striking the subsections.

5 Sec. 3. Section 331.653, subsection 43, Code 2017, is
6 amended by striking the subsection.

7 Sec. 4. Section 602.1209, Code 2017, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 17A. Carry out duties relating to the
10 identification and service of jurors as provided in chapter
11 607A.

12 Sec. 5. Section 602.1303, subsection 3, Code 2017, is
13 amended by striking the subsection.

14 Sec. 6. Section 602.8102, subsection 91, Code 2017, is
15 amended by striking the subsection.

16 Sec. 7. Section 602.8102, subsection 92, Code 2017, is
17 amended to read as follows:

18 92. Carry out duties relating to the ~~selection~~
19 identification and service of jurors as provided in chapter
20 607A.

21 Sec. 8. Section 607A.3, Code 2017, is amended by adding the
22 following new subsections:

23 NEW SUBSECTION. 2A. "*Electronic data processing system*"
24 means an electronic jury management system as designated by the
25 state court administrator.

26 NEW SUBSECTION. 3A. "*Jury pool*" means the sum total of
27 prospective jurors reporting for service.

28 Sec. 9. Section 607A.3, subsections 3, 5, 6, 10, 11, and 13,
29 Code 2017, are amended to read as follows:

30 3. "*Juror*" means any person ~~selected~~ identified for service
31 on either the grand or petit jury who attends court when
32 originally instructed to report or is deferred to a future date
33 uncertain, or is on-call and available to report to court when
34 so needed and so requested by the court.

35 5. "*Master jury list*" means the list of names taken from the

LSB 1281XD (6) 87

-1-

jh/rj

1/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 source lists for possible jury service.

2 6. *“Motor vehicle operators list and nonoperators*
3 *identification list”* means the official records maintained by
4 the state of the names and addresses of those individuals in
5 the respective counties retaining valid motor vehicle operator
6 driver’s’s licenses ~~on or before March 15 of each odd-numbered~~
7 ~~year or nonoperator’s identification cards.~~

8 10. ~~“Random selection”~~ *“Identification”* means the selection
9 random drawing of names in a manner immune to any subjective
10 bias so that no recognizable class of the population from which
11 names are being ~~selected~~ randomly drawn can be purposefully
12 included or excluded.

13 11. *“Source lists”* means the voter registration list, the
14 motor vehicle operators list, the nonoperators identification
15 list, and other comprehensive lists of persons residing in a
16 county as identified pursuant to [section 607A.22](#).

17 13. *“Voter registration list”* means the official records
18 maintained by the state of names and addresses of persons
19 registered to vote ~~on or before March 15 of each odd-numbered~~
20 ~~year.~~

21 Sec. 10. Section 607A.3, subsection 9, Code 2017, is amended
22 by striking the subsection.

23 Sec. 11. Section 607A.20, Code 2017, is amended to read as
24 follows:

25 **607A.20 Jury manager.**

26 ~~If the chief judge of the judicial district uses electronic~~
27 ~~data processing techniques and equipment for the drawing of~~
28 ~~jurors in lieu of a jury commission, the~~ The chief judge of the
29 judicial district shall, after consultation with the clerk,
30 ~~district court administrator and county auditor,~~ appoint an
31 individual to serve as the jury manager for the each county in
32 that district. The A jury manager shall be responsible for the
33 implementation of [this chapter](#) for the jury manager’s county
34 and shall assist the state court administrator in implementing
35 this chapter. The A jury manager shall ~~update the master list~~

LSB 1281XD (6) 87

-2-

jh/rj

2/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 ~~from the source lists at least once every two years beginning~~
2 ~~January 1 after the general election is held~~ retain proper
3 records to document, as directed by the chief judge or state
4 court administrator, that the procedures used to randomly
5 identify prospective jurors meet the requirements of this
6 chapter.

7 Sec. 12. Section 607A.21, Code 2017, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **607A.21 Master jury list.**

10 The electronic data processing system shall create a master
11 jury list by merging all of the names from the source lists and
12 removing duplicative entries. The state court administrator
13 shall ensure the electronic data processing system updates the
14 master jury lists from the source list at least once every
15 year. The names entered in the master jury lists constitute
16 the grand and petit master jury lists, from which grand and
17 petit jurors shall be identified.

18 Sec. 13. Section 607A.22, Code 2017, is amended to read as
19 follows:

20 **607A.22 Use of source lists — information provided.**

21 1. ~~The appointive jury commission or the jury manager state~~
22 court administrator shall use both of ensure the following
23 source lists ~~in~~ are merged in the electronic data processing
24 system when preparing grand and petit master jury lists:

25 a. The current voter registration list.

26 b. The current motor vehicle operators list and nonoperators
27 identification list.

28 2. ~~The appointive jury commission or the A~~ jury manager may
29 use any other current comprehensive list of persons residing in
30 the county, ~~including but not limited to the lists of public~~
31 ~~utility customers,~~ which the ~~appointive jury commission or~~
32 jury manager determines are useable for the purpose of a juror
33 source list.

34 3. The applicable state and local government officials
35 shall furnish, upon request, the ~~appointive jury commission or~~

LSB 1281XD (6) 87

-3-

jh/rj

3/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 state court administrator or the jury manager with copies of
2 lists necessary for the formulation of source lists at no cost
3 ~~to the commission, manager, or county.~~

4 ~~4. The jury manager or jury commission may request~~
5 ~~a consolidated source list. A consolidated source list~~
6 ~~contains all the names and addresses found in either the voter~~
7 ~~registration list or the motor vehicle operators list, but does~~
8 ~~not duplicate an individual's name within the consolidated~~
9 ~~list. State officials shall cooperate with one another~~
10 ~~to prepare consolidated lists. The jury manager or jury~~
11 ~~commission may further request that only a randomly chosen~~
12 ~~portion of the consolidated list be prepared which may consist~~
13 ~~of either a certain number of names or a certain percentage of~~
14 ~~all the names in the consolidated list, as specified by the~~
15 ~~jury manager or jury commission.~~

16 Sec. 14. Section 607A.25, Code 2017, is amended by striking
17 the section and inserting in lieu thereof the following:

18 **607A.25 Storing and security of master jury lists.**

19 The master jury lists shall be stored in the electronic data
20 processing system, and shall be accessible to only the state
21 court administrator or state court administrator's designee, or
22 the jury manager or jury manager's designee.

23 Sec. 15. Section 607A.26, Code 2017, is amended to read as
24 follows:

25 **607A.26 Preservation of records.**

26 The clerk or jury manager shall preserve all records and
27 lists compiled and maintained in connection with the ~~selection~~
28 identification and service of jurors for four years, or for any
29 longer period ordered by the state court administrator or chief
30 judge of the judicial district.

31 Sec. 16. Section 607A.30, Code 2017, is amended to read as
32 follows:

33 ~~607A.30 Time of drawing~~ **Drawing of jury pools.**

34 ~~In counties using an ex officio jury commission, the~~
35 ~~required number of jurors shall be drawn by the commission, or~~

LSB 1281XD (6) 87

-4-

jh/rj

4/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 ~~a majority of its members, at the office of the clerk at a time~~
2 ~~agreed to by the commissioners.~~

3 1. In counties using a jury manager, the At times necessary
4 for the identification of grand and petit jurors, the jury
5 manager shall arrange for the selection of the required
6 electronic data processing system to draw the necessary number
7 of grand and petit jurors at a time and place chosen by the
8 manager from the master jury list.

9 2. The chief judge of the judicial district may by order
10 prescribe the time for the drawing by the ex officio commission
11 er of the jury manager.

12 3. The jurors thus selected identified constitute the jury
13 pool and shall be notified by the clerk or jury manager by
14 regular mail when called.

15 Sec. 17. Section 607A.33, Code 2017, is amended by striking
16 the section and inserting in lieu thereof the following:

17 **607A.33 Electronic data processing system — identifying**
18 **jurors.**

19 The designated electronic data processing system shall be
20 used for the identification of jurors.

21 Sec. 18. Section 607A.35, Code 2017, is amended to read as
22 follows:

23 **607A.35 Filing list — notice** Notice to report.

24 After the list or lists have been drawn in the manner
25 provided in section 607A.33, the list or lists shall be filed
26 ~~in the office of the clerk or jury manager~~ and immediately upon
27 the request of the court, the clerk ~~or manager~~ shall issue a
28 notice to report, by regular mail, to the persons ~~so drawn~~
29 identified to appear at the courthouse at times as the court
30 prescribes, for service as petit or grand jurors.

31 Sec. 19. Section 607A.37, Code 2017, is amended to read as
32 follows:

33 **607A.37 Cancellation for illegality.**

34 If the court determines that the petit or grand jurors
35 have been illegally ~~selected, drawn,~~ identified or notified

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 to report, the court may set aside the order under which
2 the jurors were identified or notified and direct that a
3 ~~new drawing, selection~~ identification and notification of a
4 sufficient number of replacement jurors take place. ~~In that~~
5 ~~case, the ex officio jury commission shall meet at the office~~
6 ~~of the clerk, at the time the court directs, and proceed in the~~
7 ~~manner provided for the drawing of the original panel, to draw~~
8 ~~the required number of replacement jurors.~~

9 Sec. 20. Section 607A.39, Code 2017, is amended to read as
10 follows:

11 **607A.39 Additional jurors.**

12 The court may order as many additional jurors ~~drawn~~
13 identified for a jury pool or panel as the court deems
14 necessary.

15 Sec. 21. Section 607A.41, Code 2017, is amended to read as
16 follows:

17 **607A.41 Method of subsequent drawing.**

18 The names of the jurors ~~drawn~~ identified under sections
19 607A.39 and **607A.40** shall be drawn by the ~~ex officio commission~~
20 ~~or the jury manager in the manner provided for the drawing of~~
21 ~~an original pool or panel~~ electronic data processing system
22 that was used to draw the original jury pool or panel.

23 Sec. 22. Section 607A.43, Code 2017, is amended to read as
24 follows:

25 **607A.43 Correcting illegality in original lists.**

26 If the court for any reason determines that there has been
27 such substantial failure to comply with the law relative to
28 ~~selection~~ jury identification, preparation, or return of grand
29 or petit lists that lawful grand or petit jurors cannot be
30 drawn, or that the lists are exhausted or insufficient for the
31 needs of the court, the court shall order the ~~ex officio jury~~
32 ~~commission or the jury manager~~ or state court administrator
33 ~~to convene at a fixed time and place~~ use electronic data
34 processing techniques to prepare lists in lieu of the lists
35 which have been found to be illegal, or an additional list or

LSB 1281XD (6) 87

-6-

jh/rj

6/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 lists as the court deems necessary.

2 Sec. 23. REPEAL. Sections 607A.9, 607A.10, 607A.11,
3 607A.12, 607A.13, 607A.14, 607A.15, 607A.16, 607A.17, 607A.18,
4 607A.19, 607A.24, 607A.27, 607A.28, 607A.31, 607A.32, 607A.34,
5 607A.42, and 607A.44, Code 2017, are repealed.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill relates to the juror identification process,
10 eliminates the use of jury commissions to draw juror lists, and
11 requires the master jury list to be updated annually using an
12 electronic data processing system.

13 Under current law, counties may use jury commissions or a
14 jury manager to draw up a master jury list of eligible jurors,
15 return a list of grand jurors and petit jurors to the clerk of
16 district court, and select the number of required jurors from
17 the grand juror or petit juror list.

18 For counties that use jury commissions, the chief judge of
19 the judicial district in which the county is located appoints a
20 jury commission which is responsible for drawing up the master
21 jury list of potential jurors, as well as a list of potential
22 grand jurors and petit jurors. An ex officio jury commission,
23 comprised of the clerk of the district court and the county
24 auditor, then randomly selects the names from the grand juror
25 list and petit juror list to draw the required number of jurors
26 for a pool or panel.

27 Counties, however, are not required to appoint jury
28 commissions, and may instead use jury managers. The jury
29 manager for the county is appointed by the chief judge of the
30 judicial district, after consultation with the clerk of court,
31 district court administrator, and county auditor. The jury
32 manager draws up the master jury list, draws up the lists of
33 grand jurors and petit jurors, and randomly selects the names
34 from the grand juror list and petit juror list to draw the
35 required number of jurors for a pool or panel.

LSB 1281XD (6) 87

-7-

jh/rj

7/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 The bill eliminates jury commissions. As a result, counties
2 will be required to use jury managers to draw master jury lists
3 and identify jurors. The bill also requires that an electronic
4 data processing system be used to create a master jury list and
5 for the random drawing of jurors.

6 Under current law, the master jury list must be updated once
7 every two years. The master jury list is the list of names
8 taken from all source lists, including the voter registration
9 list and the motor vehicle operators list, for possible jury
10 service. The bill requires that the master jury list be
11 updated every year, and that the master jury list include the
12 list of names from the nonoperators identification list.

13 The bill provides that jury managers and the state court
14 administrator are responsible for implementing the provisions
15 of the bill.

16 The bill makes conforming changes.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1085 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED BOARD OF PHARMACY
BILL)

A BILL FOR

1 An Act making changes to the controlled substance schedules,
2 modifying the regulation of precursor substances, and
3 providing penalties, and including effective date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1287DP (16) 87
jm/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 ~~extractions of coca leaves, which extractions do not contain~~
2 ~~cocaine or ecgonine, are excluded from this paragraph. The~~
3 ~~following substances and their salts, optical and geometric~~
4 ~~isomers, derivatives, and salts of derivatives and optical~~
5 ~~and geometric isomers including cocaine and ecgonine and~~
6 ~~their salts, isomers, derivatives and salts of isomers and~~
7 ~~derivatives, and any salt, compound, derivative, or preparation~~
8 ~~thereof that is chemically equivalent or identical to any of~~
9 ~~such substances, are included in this paragraph except that the~~
10 ~~substances shall not include:~~

11 (1) ~~Cocaine~~ Decocainized coca leaves or extractions of coca
12 leaves, which extractions do not contain cocaine or ecgonine.

13 (2) ~~Ecgonine~~ [\123\I]ioflupane.

14 Sec. 5. Section 124.206, subsection 3, Code 2017, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. *ac.* Thiafentanil.

17 Sec. 6. Section 124.208, subsection 5, paragraph a,
18 subparagraphs (3) and (4), Code 2017, are amended by striking
19 the subparagraphs.

20 Sec. 7. Section 124.210, subsection 2, Code 2017, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. *c.* 2-[(dimethylamino)methyl]-1-
23 (3-methoxyphenyl)cyclohexanol, its salts, optical and geometric
24 isomers and salts of these isomers (including tramadol).

25 Sec. 8. Section 124.210, subsection 3, Code 2017, is amended
26 by adding the following new paragraphs:

27 NEW PARAGRAPH. *bb.* Alfaxalone.

28 NEW PARAGRAPH. *bc.* Suvorexant.

29 Sec. 9. Section 124.210, subsection 7, Code 2017, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. *c.* Eluxadoline (5-[[[(2S)-2-amino-3-
32 [4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-
33 (4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-
34 methoxybenzoic acid) (including its optical isomers) and its
35 salts, isomers, and salts of isomers.

LSB 1287DP (16) 87

-2-

jm/nh

2/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 Sec. 13. Section 155A.6A, subsection 5, Code 2017, is
2 amended to read as follows:

3 5. The board may deny, suspend, or revoke the registration
4 of, or otherwise discipline, a registered pharmacy technician
5 for any violation of the laws of this state, another state, or
6 the United States relating to prescription drugs, controlled
7 substances, or nonprescription drugs, or for any violation of
8 this chapter or [chapter 124](#), [124A](#), ~~[124B](#)~~, [126](#), [147](#), [205](#), or
9 [272C](#), or any rule of the board.

10 Sec. 14. Section 155A.6B, subsection 5, Code 2017, is
11 amended to read as follows:

12 5. The board may deny, suspend, or revoke the registration
13 of a pharmacy support person or otherwise discipline the
14 pharmacy support person for any violation of the laws of
15 this state, another state, or the United States relating to
16 prescription drugs, controlled substances, or nonprescription
17 drugs, or for any violation of [this chapter](#) or [chapter 124](#),
18 [124A](#), ~~[124B](#)~~, [126](#), [147](#), [205](#), or [272C](#), or any rule of the board.

19 Sec. 15. Section 155A.13A, subsection 5, paragraph d, Code
20 2017, is amended to read as follows:

21 d. Any violation of [this chapter](#) or [chapter 124](#), [124A](#), ~~[124B](#)~~,
22 [126](#), or [205](#), or rule of the board.

23 Sec. 16. Section 155A.13C, subsection 5, paragraph d, Code
24 2017, is amended to read as follows:

25 d. Any violation of [this chapter](#) or [chapter 124](#), [124A](#), ~~[124B](#)~~,
26 [126](#), or [205](#), or rule of the board.

27 Sec. 17. Section 155A.17, subsection 2, Code 2017, is
28 amended to read as follows:

29 2. The board shall establish standards for drug wholesaler
30 licensure and may define specific types of wholesaler licenses.
31 The board may deny, suspend, or revoke a drug wholesale license
32 for failure to meet the applicable standards or for a violation
33 of the laws of this state, another state, or the United
34 States relating to prescription drugs, devices, or controlled
35 substances, or for a violation of [this chapter](#), [chapter 124](#),

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 124A, ~~124B~~, 126, or 205, or a rule of the board.

2 Sec. 18. Section 155A.42, subsection 4, Code 2017, is
3 amended to read as follows:

4 4. The board may deny, suspend, or revoke a limited drug and
5 device distributor's license for failure to meet the applicable
6 standards or for a violation of the laws of this state, another
7 state, or the United States relating to prescription drugs or
8 controlled substances, or for a violation of [this chapter](#),
9 chapter 124, [124A](#), ~~124B~~, 126, 205, or [272C](#), or a rule of the
10 board.

11 Sec. 19. REPEAL. Chapter 124B, Code 2017, is repealed.

12 DIVISION III

13 EFFECTIVE DATE

14 Sec. 20. EFFECTIVE UPON ENACTMENT. This Act, being deemed
15 of immediate importance, takes effect upon enactment.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill makes changes to the controlled substance
20 schedules and modifies the regulation of precursor substances.

21 DIVISION I — CONTROLLED SUBSTANCES. The bill classifies
22 four synthetic opioids as schedule I controlled substances in
23 conformance with scheduling actions taken by the United States
24 department of justice, drug enforcement administration. The
25 bill also classifies as a schedule I controlled substance a
26 micro-opioid receptor agonist with analgesic activity similar
27 to morphine.

28 The bill classifies thiafentanil, an opioid and analogue of
29 fentanyl, as a schedule II controlled substance.

30 The bill removes hydrocodone-combination products from
31 the list of substances classified as schedule III controlled
32 substances. Currently, hydrocodone, as a single-entity
33 substance, is classified as a schedule II controlled
34 substance. The change under the bill effectively makes all
35 hydrocodone-containing products subject to the controls,

LSB 1287DP (16) 87

-5-

jm/nh

5/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 security, reporting, and penalty provisions for schedule II
2 controlled substances.

3 The bill removes naloxegol, a new molecular entity and
4 derivative of naloxone, from control as a schedule III
5 controlled substance. The federal food and drug administration
6 approved naloxegol for the treatment of opioid-induced
7 constipation in adults with chronic non-cancer pain.

8 The bill also removes [\123\I]ioflupane from control as
9 a schedule II controlled substance. This substance is a new
10 molecular entity and is the active pharmaceutical ingredient
11 in the drug DaTscan, approved by the federal food and drug
12 administration for use in diagnosis of patients suspected of
13 having Parkinson's disease.

14 The bill classifies the substance commonly known as
15 tramadol, a centrally acting opioid analgesic, as a schedule
16 IV controlled substance. This substance was previously
17 marketed and distributed as a noncontrolled prescription
18 drug. Effective August 18, 2014, the federal drug enforcement
19 administration classified tramadol as a schedule IV controlled
20 substance under federal law.

21 The bill classifies alfaxalone, a neurosteroid with central
22 nervous system depressant properties, as a schedule IV
23 controlled substance. The federal food and drug administration
24 approved this intravenous injectable anesthetic for use by or
25 on the order of a licensed veterinarian. Alfaxalone is not
26 available by prescription and is approved for use in veterinary
27 practice.

28 The bill classifies suvorexant, an insomnia treatment
29 approved by the federal food and drug administration,
30 as a schedule IV controlled substance. This is a novel,
31 first-in-class, chemical substance and information on actual
32 abuse data is not available. However, data from clinical
33 studies supports the classification in schedule IV.

34 The bill classifies eluxadoline, a new entity with central
35 nervous system opioid properties approved by the federal food

LSB 1287DP (16) 87

-6-

jm/nh

6/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 and drug administration for the treatment of irritable bowel
2 syndrome with diarrhea, as a schedule IV controlled substance.

3 The bill classifies brivaracetam, also known as briviact
4 or BRV, as a schedule V controlled substance. Briviact is a
5 new molecular entity with central nervous system depressant
6 properties and has been approved as an add-on treatment to
7 other medications to treat partial onset seizures in patients
8 age 16 years and older with epilepsy.

9 It is a class "C" felony pursuant to Code section
10 124.401(1)(c)(8) for any unauthorized person to violate a
11 provision of Code section 124.401 involving a classified
12 substance placed on schedule I, II, or III pursuant to the
13 bill. A class "C" felony for this particular offense is
14 punishable by confinement for no more than 10 years and a fine
15 of at least \$1,000 but not more than \$50,000.

16 It is an aggravated misdemeanor pursuant to Code section
17 124.401(1)(d) for any unauthorized person to violate a
18 provision of Code section 124.401 involving a classified
19 substance placed on schedule IV pursuant to the bill. An
20 aggravated misdemeanor is punishable by confinement for no more
21 than two years and a fine of at least \$625 but not more than
22 \$6,250.

23 If a person possesses a controlled substance in violation of
24 Code section 124.401(5) as a first offense, the person commits
25 a serious misdemeanor. A serious misdemeanor is punishable by
26 confinement for no more than one year and a fine of at least
27 \$315 but not more than \$1,875.

28 DIVISION II — PRECURSOR SUBSTANCES. The bill repeals
29 Code chapter 124B relating to the regulation of precursor
30 substances. Code section 124B.1 defines "precursor substance"
31 to mean a substance which may be used as a precursor in
32 the illegal production of a controlled substance and is
33 specified in Code section 124B.2. Under Code section 124B.2, a
34 manufacturer, retailer, or other person who sells, transfers,
35 or otherwise furnishes to any person in this state a substance

LSB 1287DP (16) 87

-7-

jm/nh

7/8

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 listed in Code section 124B.2 is required to file a report with
2 the board of pharmacy unless certain exceptions apply under
3 Code section 124B.6. A person who commits a violation of Code
4 chapter 124B is subject to criminal penalties ranging from a
5 simple misdemeanor to a class "C" felony.

6 DIVISION III — EFFECTIVE DATE. The bill takes effect upon
7 enactment.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1086 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to a fiduciary's access to digital assets and
2 including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2106XC (1) 87
jh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. NEW SECTION. 633.90 Power of a fiduciary to
2 access digital assets.

3 Except as modified by a court order or limited in the
4 instrument creating the fiduciary relationship, a fiduciary may
5 exercise all rights and powers granted to such fiduciary under
6 chapter 638.

7 Sec. 2. Section 633A.4402, Code 2017, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 33. Exercise all rights and powers granted
10 to a trustee under chapter 638.

11 Sec. 3. Section 633B.201, subsection 1, Code 2017, is
12 amended by adding the following new paragraph:

13 NEW PARAGRAPH. *i.* Exercise all rights and powers granted
14 to an agent under chapter 638.

15 Sec. 4. NEW SECTION. 638.1 Short title.

16 This chapter may be cited as the *"Iowa Uniform Fiduciary*
17 *Access to Digital Assets Act"*.

18 Sec. 5. NEW SECTION. 638.2 Definitions.

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

21 1. *"Account"* means an arrangement under a terms-of-service
22 agreement in which a custodian carries, maintains, processes,
23 receives, or stores a digital asset of the user or provides
24 goods or services to the user.

25 2. *"Agent"* means an attorney-in-fact granted authority under
26 a durable or nondurable power of attorney under chapter 633B.

27 3. *"Carries"* means engages in the transmission of an
28 electronic communication.

29 4. *"Catalogue of electronic communications"* means
30 information that identifies each person with which a user has
31 had an electronic communication, the time and date of the
32 communication, and the electronic address of the person.

33 5. *"Conservator"* means the same as defined in section
34 633.3. *"Conservator"* includes a person appointed to have the
35 custody and control of the property of a ward in a limited

LSB 2106XC (1) 87

-1-

jh/rj

1/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 conservatorship unless otherwise provided by order of the
2 court.

3 6. *“Content of an electronic communication”* means information
4 concerning the substance or meaning of the communication to
5 which all of the following apply:

6 a. The communication has been sent or received by a user.

7 b. The communication is in electronic storage by a
8 custodian providing an electronic-communication service to the
9 public or is carried or maintained by a custodian providing a
10 remote-computing service to the public.

11 c. The communication is not readily accessible to the
12 public.

13 7. *“Court”* means a district court in this state.

14 8. *“Custodian”* means a person that carries, maintains,
15 processes, receives, or stores a digital asset of a user.

16 9. *“Designated recipient”* means a person chosen by a user
17 using an online tool to administer digital assets of the user.

18 10. *“Digital asset”* means an electronic record in which an
19 individual has a right or interest. *“Digital asset”* does not
20 include an underlying asset or liability unless the asset or
21 liability is itself an electronic record. *“Digital asset”* does
22 not include health information or individually identifiable
23 health information as those terms are defined in the federal
24 Health Insurance Portability and Accountability Act of 1996,
25 Pub. L. No. 104-191.

26 11. *“Electronic”* means relating to technology having
27 electrical, digital, magnetic, wireless, optical,
28 electromagnetic, or similar capabilities.

29 12. *“Electronic communication”* has the meaning set forth in
30 18 U.S.C. §2510(12).

31 13. *“Electronic-communication service”* means a custodian
32 that provides to a user the ability to send or receive an
33 electronic communication.

34 14. *“Fiduciary”* means a personal representative,
35 conservator, guardian, agent, or trustee.

LSB 2106XC (1) 87

-2-

jh/rj

2/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 15. *“Guardian”* means the same as defined in section 633.3.
2 *“Guardian”* includes a person appointed to have the custody and
3 care of the person of the ward in a limited guardianship unless
4 otherwise provided by order of the court.

5 16. *“Information”* means data, text, images, videos, sounds,
6 codes, computer programs, software, databases, or the like.

7 17. *“Online tool”* means an electronic service provided by
8 a custodian that allows the user, in an agreement distinct
9 from the terms-of-service agreement between the custodian and
10 user, to provide directions for disclosure or nondisclosure of
11 digital assets to a third person.

12 18. *“Person”* means an individual, estate, business
13 or nonprofit entity, public corporation, government or
14 governmental subdivision, agency, instrumentality, or other
15 legal entity.

16 19. *“Personal representative”* means the same as defined in
17 section 633.3.

18 20. *“Power of attorney”* means the same as defined in section
19 633B.102.

20 21. *“Principal”* means the same as defined in section
21 633B.102.

22 22. *“Record”* means information that is inscribed on a
23 tangible medium or that is stored in an electronic or other
24 medium and is retrievable in perceivable form.

25 23. *“Remote-computing service”* means a custodian that
26 provides to a user computer-processing services or the storage
27 of digital assets by means of an electronic communications
28 system, as defined in 18 U.S.C. §2510(14).

29 24. *“Terms-of-service agreement”* means an agreement that
30 controls the relationship between a user and a custodian.

31 25. *“Trustee”* means the same as defined in section 633.3 or
32 633A.1102.

33 26. *“User”* means a person that has an account with a
34 custodian.

35 27. *“Ward”* means an individual for whom a conservator or

LSB 2106XC (1) 87

-3-

jh/rj

3/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 guardian has been appointed. "Ward" includes an individual
2 for whom an application for the appointment of a conservator
3 or guardian is pending and for which a court order authorizing
4 access under this chapter has been granted.

5 28. "Will" means the same as defined in section 633.3.

6 Sec. 6. NEW SECTION. **638.3 Applicability.**

7 1. This chapter applies to all of the following:

- 8 a. A fiduciary acting under a will or power of attorney
9 executed before, on, or after the effective date of this Act.
10 b. A personal representative acting for a decedent who died
11 before, on, or after the effective date of this Act.
12 c. A conservator or guardian acting for a ward on or after
13 the effective date of this Act.
14 d. A trustee acting under a trust created before, on, or
15 after the effective date of this Act.

16 2. This chapter applies to a custodian if the user resides
17 in this state or resided in this state at the time of the user's
18 death.

19 3. This chapter does not apply to a digital asset of an
20 employer used by an employee in the ordinary course of the
21 employer's business.

22 Sec. 7. NEW SECTION. **638.4 User direction for disclosure**
23 **of digital assets.**

24 1. A user may use an online tool to direct the custodian to
25 disclose to the designated recipient or not to disclose some
26 or all of the user's digital assets, including the content
27 of electronic communications. If the online tool allows the
28 user to modify or delete a direction at any time, a direction
29 regarding disclosure using an online tool overrides a contrary
30 direction by the user in a will, trust, power of attorney, or
31 other record.

32 2. If a user has not used an online tool to give direction
33 under subsection 1, or if the custodian has not provided an
34 online tool, the user may allow or prohibit in a will, trust,
35 power of attorney, or other record, disclosure to a fiduciary

LSB 2106XC (1) 87

-4-

jh/rj

4/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 of some or all of the user's digital assets, including the
2 content of electronic communications sent or received by the
3 user.

4 3. A user's direction under subsection 1 or 2 overrides a
5 contrary provision in a terms-of-service agreement that does
6 not require the user to act affirmatively and distinctly from
7 the user's assent to the terms of service.

8 Sec. 8. NEW SECTION. **638.5 Terms-of-service agreement.**

9 1. This chapter does not change or impair a right of a
10 custodian or a user under a terms-of-service agreement to
11 access and use digital assets of the user.

12 2. This chapter does not give a fiduciary or a designated
13 recipient any new or expanded rights other than those held by
14 the user for whom, or for whose estate, the fiduciary or a
15 designated recipient acts or represents.

16 3. A fiduciary's or designated recipient's access to
17 digital assets may be modified or eliminated by a user, by
18 federal law, or by a terms-of-service agreement if the user has
19 not provided direction under section 638.4.

20 Sec. 9. NEW SECTION. **638.6 Procedure for disclosing digital**
21 **assets.**

22 1. When disclosing digital assets of a user under this
23 chapter, the custodian may at its sole discretion do any of the
24 following:

25 a. Grant a fiduciary or designated recipient full access to
26 the user's account.

27 b. Grant a fiduciary or designated recipient partial access
28 to the user's account sufficient to perform the tasks with
29 which the fiduciary or designated recipient is charged.

30 c. Provide a fiduciary or designated recipient a copy in
31 a record of any digital asset that, on the date the custodian
32 received the request for disclosure, the user could have
33 accessed if the user were alive, was competent, and had access
34 to the account.

35 2. A custodian may assess a reasonable administrative

LSB 2106XC (1) 87

-5-

jh/rj

5/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 charge for the cost of disclosing digital assets under this
2 chapter.

3 3. A custodian need not disclose under this chapter a
4 digital asset deleted by a user.

5 4. If a user directs or a fiduciary requests a custodian to
6 disclose some, but not all, of the user's digital assets, the
7 custodian need not disclose the assets if segregation of the
8 assets would impose an undue burden on the custodian. If the
9 custodian believes the direction or request imposes an undue
10 burden, the custodian or fiduciary may seek an order from the
11 court to disclose any of the following:

12 a. A subset of the user's digital assets limited by date.

13 b. All of the user's digital assets to the fiduciary or
14 designated recipient.

15 c. None of the user's digital assets.

16 d. All of the user's digital assets to the court for review
17 in camera.

18 Sec. 10. NEW SECTION. 638.7 Disclosure of content of
19 electronic communications of deceased user.

20 If a deceased user consented or a court directs disclosure
21 of the contents of electronic communications of the user, the
22 custodian shall disclose to the personal representative of the
23 estate of the user the content of an electronic communication
24 sent or received by the user if the personal representative
25 gives the custodian all of the following:

26 1. A written request for disclosure in physical or
27 electronic form.

28 2. A certified copy of the death certificate of the user.

29 3. A certified copy of the letters of appointment of the
30 personal representative, an original affidavit made pursuant
31 to section 633.356, or a file-stamped copy of the court order
32 authorizing the personal representative to administer the
33 user's estate.

34 4. Unless the user provided direction using an online tool,
35 a copy of the user's will, trust, power of attorney, or other

LSB 2106XC (1) 87

-6-

jh/rj

6/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 record evidencing the user's consent to disclosure of the
2 content of electronic communications.

3 5. If requested by the custodian, any of the following:

4 a. A number, username, address, or other unique subscriber
5 or account identifier assigned by the custodian to identify the
6 user's account.

7 b. Evidence linking the account to the user.

8 c. A finding by the court of any of the following:

9 (1) The user had a specific account with the custodian,
10 identifiable by the information specified in paragraph "a".

11 (2) Disclosure of the content of electronic communications
12 of the user would not violate 18 U.S.C. §2701 et seq., 47
13 U.S.C. §222, or other applicable law.

14 (3) Unless the user provided direction using an online
15 tool, that the user consented to disclosure of the content of
16 electronic communications.

17 (4) Disclosure of the content of electronic communications
18 of the user is reasonably necessary for administration of the
19 estate.

20 Sec. 11. NEW SECTION. 638.8 Disclosure of other digital
21 assets of deceased user.

22 Unless the user prohibited disclosure of digital assets or
23 the court directs otherwise, a custodian shall disclose to the
24 personal representative of the estate of a deceased user a
25 catalogue of electronic communications sent or received by the
26 user and digital assets, other than the content of electronic
27 communications, of the user, if the personal representative
28 gives the custodian all of the following:

29 1. A written request for disclosure in physical or
30 electronic form.

31 2. A certified copy of the death certificate of the user.

32 3. A certified copy of the letters of appointment of the
33 personal representative, an original affidavit made pursuant
34 to section 633.356, or a file-stamped copy of the court order
35 authorizing the personal representative to administer the

LSB 2106XC (1) 87

-7-

jh/rj

7/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 user's estate.

2 4. If requested by the custodian, any of the following:

3 a. A number, username, address, or other unique subscriber
4 or account identifier assigned by the custodian to identify the
5 user's account.

6 b. Evidence linking the account to the user.

7 c. An affidavit stating that disclosure of the user's
8 digital assets is reasonably necessary for administration of
9 the estate.

10 d. A finding by the court of any of the following:

11 (1) The user had a specific account with the custodian,
12 identifiable by the information specified in paragraph "a".

13 (2) Disclosure of the user's digital assets is reasonably
14 necessary for administration of the estate.

15 Sec. 12. NEW SECTION. 638.9 Disclosure of content of
16 electronic communications of principal.

17 To the extent a power of attorney expressly grants an agent
18 authority over the content of electronic communications sent
19 or received by the principal and unless directed otherwise by
20 the principal or the court, a custodian shall disclose to the
21 agent the content if the agent gives the custodian all of the
22 following:

23 1. A written request for disclosure in physical or
24 electronic form.

25 2. An original or copy of the power of attorney expressly
26 granting the agent authority over the content of electronic
27 communications of the principal.

28 3. A certification by the agent, under penalty of perjury,
29 that the power of attorney is in effect. The certification
30 form provided in section 633B.302 shall satisfy the requirement
31 of this subsection.

32 4. If requested by the custodian, any of the following:

33 a. A number, username, address, or other unique subscriber
34 or account identifier assigned by the custodian to identify the
35 principal's account.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 *b.* Evidence linking the account to the principal.

2 Sec. 13. NEW SECTION. 638.10 Disclosure of other digital
3 assets of principal.

4 Unless otherwise ordered by the court, directed by the
5 principal, or provided by a power of attorney, a custodian
6 shall disclose to an agent with specific authority over digital
7 assets or general authority to act on behalf of a principal
8 a catalogue of electronic communications sent or received by
9 the principal and digital assets, other than the content of
10 electronic communications, of the principal if the agent gives
11 the custodian all of the following:

12 1. A written request for disclosure in physical or
13 electronic form.

14 2. An original or a copy of the power of attorney that gives
15 the agent specific authority over digital assets or general
16 authority to act on behalf of the principal.

17 3. A certification by the agent, under penalty of perjury,
18 that the power of attorney is in effect.

19 4. If requested by the custodian, any of the following:

20 *a.* A number, username, address, or other unique subscriber
21 or account identifier assigned by the custodian to identify the
22 principal's account.

23 *b.* Evidence linking the account to the principal.

24 Sec. 14. NEW SECTION. 638.11 Disclosure of digital assets
25 held in trust when trustee is original user.

26 Unless otherwise ordered by the court or provided in a trust,
27 a custodian shall disclose to a trustee that is an original
28 user of an account any digital asset of the account held in
29 trust, including a catalogue of electronic communications of
30 the trustee and the content of electronic communications.

31 Sec. 15. NEW SECTION. 638.12 Disclosure of contents of
32 electronic communications held in trust when trustee not original
33 user.

34 Unless otherwise ordered by the court, directed by the user,
35 or provided in a trust, a custodian shall disclose to a trustee

LSB 2106XC (1) 87

-9-

jh/rj

9/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 that is not an original user of an account the content of an
2 electronic communication sent or received by an original or
3 successor user and carried, maintained, processed, received,
4 or stored by the custodian in the account of the trust if the
5 trustee gives the custodian all of the following:

6 1. A written request for disclosure in physical or
7 electronic form.

8 2. A certified copy of the trust instrument or a
9 certification of trust under section 633A.4604 that
10 includes consent to disclosure of the content of electronic
11 communications to the trustee.

12 3. A certification by the trustee, under penalty of perjury,
13 that the trust exists and the trustee is a currently acting
14 trustee of the trust.

15 4. If requested by the custodian, any of the following:

16 a. A number, username, address, or other unique subscriber
17 or account identifier assigned by the custodian to identify the
18 trust's account.

19 b. Evidence linking the account to the trust.

20 Sec. 16. NEW SECTION. 638.13 Disclosure of other digital
21 assets held in trust when trustee not original user.

22 Unless otherwise ordered by the court, directed by the
23 user, or provided in a trust, a custodian shall disclose, to a
24 trustee that is not an original user of an account, a catalogue
25 of electronic communications sent or received by an original
26 or successor user and stored, carried, or maintained by the
27 custodian in an account of the trust and any digital assets,
28 other than the content of electronic communications, in which
29 the trust has a right or interest if the trustee gives the
30 custodian all of the following:

31 1. A written request for disclosure in physical or
32 electronic form.

33 2. A certified copy of the trust instrument or a
34 certification of trust under section 633A.4604.

35 3. A certification by the trustee, under penalty of perjury,

LSB 2106XC (1) 87

-10-

jh/rj

10/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 that the trust exists and the trustee is a currently acting
2 trustee of the trust.

3 4. If requested by the custodian, any of the following:

4 a. A number, username, address, or other unique subscriber
5 or account identifier assigned by the custodian to identify the
6 trust's account.

7 b. Evidence linking the account to the trust.

8 Sec. 17. NEW SECTION. 638.14 Disclosure of digital assets
9 to conservator or guardian of a ward.

10 1. After an opportunity for a hearing to all interested
11 parties, the court may grant a conservator or guardian access
12 to the digital assets of a ward.

13 2. Unless otherwise ordered by the court or directed by the
14 user, a custodian shall disclose to a conservator or guardian
15 the catalogue of electronic communications sent or received
16 by a ward and any digital assets, other than the content of
17 electronic communications, in which the ward has a right or
18 interest if the conservator or guardian gives the custodian all
19 of the following:

20 a. A written request for disclosure in physical or
21 electronic form.

22 b. A file-stamped copy of the court order that gives the
23 conservator or guardian authority over the digital assets of
24 the ward.

25 c. If requested by the custodian, any of the following:

26 (1) A number, username, address, or other unique subscriber
27 or account identifier assigned by the custodian to identify the
28 account of the ward.

29 (2) Evidence linking the account to the ward.

30 3. If the conservatorship or guardianship is not limited,
31 the conservator or guardian may request a custodian of the
32 digital assets of the ward to suspend or terminate an account
33 of the ward for good cause. A request made under this section
34 must be accompanied by a file-stamped copy of the court order
35 establishing the conservatorship or guardianship.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Sec. 18. NEW SECTION. **638.15 Fiduciary duty and authority.**

2 1. The legal duties imposed on a fiduciary charged with
3 managing tangible property apply to the management of digital
4 assets, including all of the following:

5 *a.* The duty of care.

6 *b.* The duty of loyalty.

7 *c.* The duty of confidentiality.

8 2. All of the following apply to a fiduciary's or a
9 designated recipient's authority with respect to a digital
10 asset of a user:

11 *a.* Except as otherwise provided in section 638.4, the
12 fiduciary's or designated recipient's authority is subject to
13 the applicable terms of service.

14 *b.* The fiduciary's or designated recipient's authority is
15 subject to other applicable law, including copyright law.

16 *c.* In the case of a fiduciary, the fiduciary's authority is
17 limited by the scope of the fiduciary's duties.

18 *d.* The fiduciary's or designated recipient's authority shall
19 not be used to impersonate the user.

20 3. A fiduciary with authority over the property of a
21 decedent, ward, principal, or settlor has the right to access
22 any digital asset in which the decedent, ward, principal, or
23 settlor had a right or interest and that is not held by a
24 custodian or subject to a terms-of-service agreement.

25 4. A fiduciary acting within the scope of the fiduciary's
26 duties is an authorized user of the property of the decedent,
27 ward, principal, or settlor for the purpose of applicable
28 computer-fraud and unauthorized-computer-access laws, including
29 section 716.6B.

30 5. A fiduciary with authority over the tangible, personal
31 property of a decedent, ward, principal, or settlor possesses
32 all of the following authority:

33 *a.* Has the right to access the property and any digital
34 asset stored in the property.

35 *b.* Is an authorized user for the purpose of computer-fraud

LSB 2106XC (1) 87

-12-

jh/rj

12/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 and unauthorized-computer-access laws, including section
2 716.6B.

3 6. A custodian may disclose information in an account to
4 a fiduciary of the user when the information is required to
5 terminate an account used to access digital assets licensed to
6 the user.

7 7. A fiduciary of a user may request a custodian to
8 terminate the user's account. A request for termination must
9 be in writing, in either physical or electronic form, and
10 accompanied by all of the following:

11 a. If the user is deceased, a certified copy of the death
12 certificate of the user.

13 b. A certified copy of the letters of appointment of the
14 personal representative, an original affidavit made pursuant
15 to section 633.356, a file-stamped copy of the court order
16 authorizing the personal representative to administer the
17 user's estate, power of attorney, or trust, including a
18 certification of trust, giving the fiduciary authority over the
19 account.

20 c. If requested by the custodian, any of the following:

21 (1) A number, username, address, or other unique subscriber
22 or account identifier assigned by the custodian to identify the
23 user's account.

24 (2) Evidence linking the account to the user.

25 (3) A finding by the court that the user had a specific
26 account with the custodian, identifiable by the information
27 specified in subparagraph (1).

28 Sec. 19. NEW SECTION. **638.16 Custodian compliance and**
29 **immunity.**

30 1. Not later than sixty days after receipt of the
31 information required under sections 638.7 through 638.14, a
32 custodian shall comply with a request under this chapter from a
33 fiduciary or designated recipient to disclose digital assets or
34 terminate an account. If the custodian fails to comply, the
35 fiduciary or designated recipient may apply to the court for

LSB 2106XC (1) 87

-13-

jh/rj

13/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 an order directing compliance.

2 2. An order under subsection 1 directing compliance must
3 contain a finding that compliance is not in violation of 18
4 U.S.C. §2702.

5 3. A custodian may notify the user that a request for
6 disclosure or to terminate an account was made under this
7 chapter.

8 4. A custodian may deny a request under this chapter from
9 a fiduciary or designated recipient for disclosure of digital
10 assets or to terminate an account if the custodian is aware of
11 any lawful access to the account following the receipt of the
12 fiduciary's request.

13 5. This chapter does not limit a custodian's ability
14 to obtain or require a fiduciary or designated recipient
15 requesting disclosure or termination under this chapter to
16 obtain a court order which finds all of the following:

17 a. That the account belongs to the user.

18 b. That there is sufficient consent from the user to support
19 the requested disclosure.

20 c. Any specific factual finding required by any applicable
21 law other than this chapter.

22 6. A custodian and the custodian's officers, employees, and
23 agents are immune from liability for an act or omission done in
24 good faith in compliance with this chapter.

25 **Sec. 20. NEW SECTION. 638.17 Uniformity of application and**
26 **construction.**

27 In applying and construing this chapter, consideration must
28 be given to the need to promote uniformity of the law with
29 respect to this chapter's subject matter among states that
30 enact the revised uniform fiduciary access to digital assets
31 Act.

32 **Sec. 21. NEW SECTION. 638.18 Relation to Electronic**
33 **Signatures in Global and National Commerce Act.**

34 This chapter modifies, limits, or supersedes the federal
35 Electronic Signatures in Global and National Commerce Act, 15

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 U.S.C. §7001 et seq., but does not modify, limit, or supersede
2 section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize
3 electronic delivery of any of the notices described in section
4 103(b) of that Act, 15 U.S.C. §7003(b).

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 This bill relates to a fiduciary's access to digital assets
9 and includes applicability provisions.

10 The bill defines "digital asset" as an electronic record in
11 which an individual has a right or interest. "Digital asset"
12 does not include an underlying asset or liability unless the
13 asset or liability is itself an electronic record. "Digital
14 asset" does not include health information or individually
15 identifiable health information as those terms are defined in
16 the federal Health Insurance Portability and Accountability
17 Act. "Fiduciary" is defined as an agent under a power of
18 attorney pursuant to Code chapter 633B, a conservator,
19 guardian, personal representative, or trustee as each is
20 defined under Code section 633.3, or a trustee as defined in
21 Code section 633A.1102. "Custodian" is defined as a person
22 that carries, maintains, processes, receives, or stores a
23 digital asset of a user. "User" is defined as a person that has
24 an account with a custodian.

25 The bill provides that a user may direct a custodian to
26 disclose to the designated recipient or not to disclose
27 the user's digital assets to a fiduciary through an online
28 tool, a will, trust, power of attorney, or other record. A
29 terms-of-service agreement which the user agreed to may also
30 provide whether the custodian shall disclose the user's digital
31 assets to a fiduciary.

32 The bill provides that a custodian shall disclose the
33 electronic communications of a deceased user to the personal
34 representative of the estate if the personal representative
35 provides the custodian a written request for disclosure,

LSB 2106XC (1) 87

-15-

jh/rj

15/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 a certified copy of the death certificate, letters of
2 appointment, and documentation evidencing the user's consent
3 to disclosure of the content of electronic communications,
4 unless the user provided such direction in an online
5 tool. A custodian shall disclose other digital assets of a
6 deceased user to the personal representative if the personal
7 representative provides a written request for disclosure,
8 a certified copy of the death certificate, and letters of
9 appointment.

10 The bill provides that if a power of attorney expressly
11 grants an agent authority over the content of electronic
12 communications, a custodian shall disclose such content if
13 the agent provides to the custodian a written request for
14 disclosure, a copy of the power of attorney expressly granting
15 the agent authority over the content of the principal's
16 electronic communications, and a certification by the agent
17 that the power of attorney is in effect. Where a power of
18 attorney grants an agent specific authority over digital
19 assets or general authority to act on behalf of the principal,
20 the custodian shall disclose a catalogue of electronic
21 communications sent or received by the principal and digital
22 assets, other than the content of electronic communications,
23 if the agent provides to the custodian a written request for
24 disclosure, a copy of the power of attorney giving the agent
25 specific authority over digital assets or general authority
26 to act on behalf of the principal, and a certification by the
27 agent that the power of attorney is in effect.

28 The bill provides that a custodian shall disclose to a
29 trustee that is an original user of an account any digital
30 asset of the account held in trust. The bill provides that
31 unless otherwise ordered by the court, directed by the user, or
32 provided in a trust, a custodian shall disclose to a trustee
33 that is not an original user the content of an electronic
34 communication sent or received by a user if the trustee gives
35 the custodian a written request, a certified copy of the trust

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 that includes consent to disclose the content of electronic
2 communications to the trustee, and a certification by the
3 trustee that the trust exists and the trustee is a currently
4 acting trustee. A custodian shall disclose to a trustee
5 digital assets in which the trust has an interest and that
6 are not electronic communications if the trustee gives the
7 custodian a written request, a certified copy of the trust
8 instrument or certification, and a certification by the trustee
9 that the trust exists and the trustee is a currently acting
10 trustee.

11 The bill provides that after an opportunity for a hearing,
12 the court may grant a conservator or guardian access to
13 a ward's digital assets. The bill also provides that a
14 custodian shall disclose to a conservator or guardian the
15 catalogue of electronic communications of a ward and any of
16 the ward's other digital assets, other than the content of
17 electronic communications, if the conservator or guardian
18 provides the custodian with a written request for disclosure
19 and a copy of the court order that gives the conservator or
20 guardian authority over the ward's digital assets. If the
21 conservatorship or guardianship is not limited, the conservator
22 or guardian may request a custodian to suspend or terminate an
23 account of the ward for good cause.

24 The bill imposes on a fiduciary the duties of care, loyalty,
25 and confidentiality and specifies a fiduciary's authority with
26 respect to digital assets of a user.

27 The bill provides that a custodian has 60 days to comply with
28 a request under the new Code chapter. If the custodian fails
29 to comply, the fiduciary may apply for a court order directing
30 compliance.

31 The bill provides that a custodian and the custodian's
32 officers, employees, and agents are immune from liability for
33 an act or omission done in good faith in compliance with the
34 new Code chapter.

35 The bill provides applicability provisions. The bill

LSB 2106XC (1) 87

-17-

jh/rj

17/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 applies to a fiduciary acting under a will or a power of
2 attorney executed before, on, or after the effective date of
3 the bill. The bill applies to a personal representative acting
4 for a decedent who dies before, on, or after the effective date
5 of the bill. The bill applies to a conservator or guardian
6 acting for a ward on or after the effective date of the bill.
7 The bill applies to a trustee acting under a trust created
8 before, on, or after the effective date of the bill.
9 The bill makes conforming changes.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1087 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to medical malpractice claims, including
2 noneconomic damage awards, contingency fees, expert
3 witnesses, and defenses.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1987XC (5) 87
jh/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. Section 135P.1, subsection 2, Code 2017, is
2 amended to read as follows:

3 2. *“Health care provider”* means a physician or osteopathic
4 physician licensed under chapter 148, a physician assistant
5 licensed under and practicing under a supervising physician
6 pursuant to chapter 148C, a podiatrist licensed under chapter
7 149, ~~or a chiropractor licensed under chapter 151, a licensed~~
8 ~~practical nurse, a registered nurse, or an advanced registered~~
9 ~~nurse practitioner licensed pursuant to under chapter 152 or~~
10 ~~152E, a dentist licensed under chapter 153, an optometrist~~
11 ~~licensed under chapter 154, a pharmacist licensed under chapter~~
12 ~~155A, or any other person who is licensed, certified, or~~
13 ~~otherwise authorized or permitted by the law of this state to~~
14 ~~administer health care in the ordinary course of business or in~~
15 ~~the practice of a profession.~~

16 Sec. 2. **NEW SECTION. 147.136A Noneconomic damage awards**
17 **against health care providers.**

18 1. For purposes of this section:

19 a. *“Health care provider”* means a physician or an
20 osteopathic physician licensed under chapter 148, a
21 chiropractor licensed under chapter 151, a podiatrist
22 licensed under chapter 149, a physician assistant licensed and
23 practicing under a supervising physician under chapter 148C, a
24 licensed practical nurse, a registered nurse, or an advanced
25 registered nurse practitioner licensed under chapter 152 or
26 152E, a dentist licensed under chapter 153, an optometrist
27 licensed under chapter 154, a pharmacist licensed under chapter
28 155A, a hospital as defined in section 135B.1, or a health care
29 facility as defined in section 135C.1.

30 b. *“Health care services”* means medical diagnosis,
31 treatment, evaluation, advice, or acts that are permitted under
32 chapter 148, 148C, 149, 152, 152E, 153, 154, or 155A, or any
33 other health care licensing statutes of this state.

34 c. *“Noneconomic damages”* means damages arising from
35 pain, suffering, inconvenience, physical impairment, mental

LSB 1987XC (5) 87

-1-

jh/nh

1/11

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 anguish, emotional pain and suffering, loss of chance, loss of
2 consortium, or any other nonpecuniary damages.

3 2. The total amount of noneconomic damages recoverable from
4 all defendants in all civil actions, whether in tort, contract,
5 or otherwise and including derivate actions, that arise out of
6 an act or omission in connection with the provision of health
7 care services shall not exceed two hundred fifty thousand
8 dollars.

9 3. The limitation on damages contained in this section
10 shall not apply as to a defendant if that defendant's actions
11 constituted actual malice.

12 Sec. 3. Section 147.138, Code 2017, is amended to read as
13 follows:

14 **147.138 Contingent fee of attorney reviewed by court.**

15 1. In any action for personal injury or wrongful death
16 against any physician and surgeon, osteopathic physician
17 and surgeon, dentist, podiatric physician, optometrist,
18 pharmacist, chiropractor or nurse licensed under this chapter
19 or against any hospital licensed under [chapter 135B](#) a health
20 care provider, as defined in section 147.136A, based upon the
21 alleged negligence of the licensee health care provider in the
22 practice of that profession or occupation or in patient care,
23 or upon the alleged negligence of the hospital in patient care,
24 the court shall determine the reasonableness of any contingent
25 fee arrangement between the plaintiff and the plaintiff's
26 attorney, which, subject to subsection 2, shall not exceed
27 thirty-five percent of the total settlement or award.

28 2. Upon petition by the plaintiff or the plaintiff's
29 attorney, the court may permit an attorney fee in an amount
30 greater than the amount allowed under subsection 1 if the court
31 determines that the additional amount is fair and reasonable.

32 Sec. 4. Section 147.139, Code 2017, is amended to read as
33 follows:

34 **147.139 Expert witness standards.**

35 1. If the standard of care given by a ~~physician and surgeon~~

LSB 1987XC (5) 87

-2-

jh/nh

2/11

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 ~~or an osteopathic physician and surgeon licensed pursuant~~
2 ~~to [chapter 148](#), or a dentist licensed pursuant to chapter~~
3 ~~153 health care provider, as defined in section 147.136A,~~
4 ~~is at issue, the court shall only allow a person to qualify~~
5 ~~as an expert witness and to testify on the issue of the~~
6 ~~appropriate standard of care if the person's medical or dental~~
7 ~~qualifications relate directly to the medical problem or~~
8 ~~problems at issue and the type of treatment administered in the~~
9 ~~case., breach of the standard of care, or proximate cause if~~
10 all of the following are true:

11 a. The person is licensed to practice in the same field as
12 the defendant, is in good standing in each state of licensure,
13 and in the five years preceding the act or omission alleged to
14 be negligent, has not had a license in any state revoked or
15 suspended.

16 b. In the five years preceding the act or omission alleged
17 to be negligent, the person actively practiced in the same
18 field as the defendant or was a qualified instructor at an
19 accredited university in the same field as the defendant.

20 c. The person practiced or provided university instruction
21 in the same or substantially similar specialty as the
22 defendant.

23 d. The person is trained and experienced in the same
24 discipline or school of practice as the defendant or has
25 specialty expertise in the disease process or procedure
26 performed in the case.

27 e. If the defendant is board-certified in a specialty, the
28 person is certified in the same specialty by a board recognized
29 by the American board of medical specialties or the American
30 osteopathic association.

31 2. A person not licensed in this state but licensed in
32 another state who testifies on the issue of the appropriate
33 standard of care, breach of the standard of care, or proximate
34 cause as an expert witness shall be deemed to hold a temporary
35 license to practice in this state solely for the purpose of

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 and while providing such testimony and shall be subject to
2 the authority of the applicable licensing board in this state
3 including but not limited to the provisions of section 147.55.

4 Sec. 5. NEW SECTION. 147.140 Expert witness — certificate
5 of merit affidavit.

6 1. *a.* In any action for personal injury or wrongful
7 death against a health care provider based upon the alleged
8 negligence in the practice of that profession or occupation or
9 in patient care, including a cause of action for which expert
10 testimony is necessary to establish a prima facie case, the
11 plaintiff shall, within ninety days of the defendant's answer,
12 serve upon the defendant a certificate of merit affidavit for
13 each expert witness listed pursuant to section 668.11 who will
14 testify with respect to the issues of standard of care, breach
15 of standard of care, or causation. All expert witnesses must
16 meet the qualifying standards of section 147.139.

17 *b.* A certificate of merit affidavit must be signed by the
18 expert witness and certify the purpose for calling the expert
19 witness by providing under the oath of the expert witness all
20 of the following:

21 (1) The expert witness's statement of familiarity with the
22 applicable standard of care.

23 (2) The expert witness's statement that the standard of care
24 was breached by the health care provider named in the petition.

25 (3) The expert witness's statement of the actions that the
26 health care provider failed to take or should have taken to
27 comply with the standard of care.

28 (4) The expert witness's statement of the manner by which
29 the breach of the standard of care was the cause of the injury
30 alleged in the petition.

31 *c.* A plaintiff shall serve a separate certificate of merit
32 affidavit on each defendant named in the petition.

33 *d.* Answers to interrogatories may serve as an expert
34 witness's certificate of merit affidavit in lieu of a
35 separately executed affidavit if the interrogatories satisfy

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 the requirements of this subsection and are signed by the
2 plaintiff's attorney and by each expert witness listed in the
3 answers to interrogatories and served upon the defendant within
4 ninety days of the defendant's answer.

5 2. An expert witness's certificate of merit affidavit does
6 not preclude additional discovery and supplementation of the
7 expert witness's opinions in accordance with the rules of civil
8 procedure.

9 3. The parties by agreement or the court for good cause
10 shown and in response to a motion filed prior to the expiration
11 of the time limits specified in subsection 1 may provide for
12 extensions of the time limits. Good cause shall include
13 but not be limited to the inability to timely obtain the
14 plaintiff's medical records from health care providers when
15 requested prior to filing the petition.

16 4. If the plaintiff is acting pro se, the plaintiff
17 shall sign the certificate of merit affidavit or answers to
18 interrogatories referred to in this section and shall be bound
19 by those provisions as if represented by an attorney.

20 5. a. Failure to substantially comply with subsection
21 1 shall result, upon motion, in dismissal with prejudice of
22 each cause of action as to which expert witness testimony is
23 necessary to establish a prima facie case.

24 b. A written notice of deficiency may be served upon the
25 plaintiff for failure to comply with subsection 1 because of
26 deficiencies in the certificate of merit affidavit or answers
27 to interrogatories. The notice shall state with particularity
28 each deficiency of the affidavit or answers to interrogatories.
29 The plaintiff shall have twenty days to cure the deficiency.
30 Failure to comply within the twenty days shall result, upon
31 motion, in mandatory dismissal with prejudice of each action
32 as to which expert witness testimony is necessary to establish
33 a prima facie case. A party resisting a motion for mandatory
34 dismissal pursuant to this section shall have the right to
35 request a hearing on the motion.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 6. For purposes of this section, "health care provider"
2 means the same as defined in section 147.136A.

3 Sec. 6. NEW SECTION. **622.31A Evidence-based medical**
4 **practice guidelines — affirmative defense.**

5 1. For purposes of this section:

6 *a. "Evidence-based medical practice guidelines" means*
7 *voluntary medical practice parameters or protocols established*
8 *and released through a recognized physician consensus-building*
9 *organization approved by the United States department of*
10 *health and human services, the American medical association's*
11 *physician consortium for performance improvement or similar*
12 *activity, or a recognized national medical specialty society.*

13 *b. "Health care provider" means the same as defined in*
14 *section 147.136A.*

15 2. In an action for personal injury or wrongful death
16 against a health care provider based upon the alleged
17 negligence in the practice of that profession or occupation or
18 in patient care, the health care provider may establish as an
19 affirmative defense that the health care provider complied with
20 evidence-based medical practice guidelines in the diagnosis and
21 treatment of the patient.

22 3. The court shall admit evidence-based medical practice
23 guidelines into evidence if introduced by a health care
24 provider or the health care provider's employer and if the
25 health care provider or the health care provider's employer
26 submits evidence that the evidence-based medical practice
27 guidelines were appropriate for the patient and that the
28 health care provider complied with such evidence-based
29 medical practice guidelines. Evidence of departure from an
30 evidence-based medical practice guideline is admissible only on
31 the issue of whether the health care provider is entitled to
32 establish an affirmative defense under this section.

33 4. This section shall not apply to any of the following:

34 *a. The health care provider's mistaken determination that*
35 *an evidence-based medical practice guideline applied to a*

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 practicing under a supervising physician pursuant to chapter
2 148C, a podiatrist licensed under chapter 149, a chiropractor
3 licensed under chapter 151, a licensed practical nurse, a
4 registered nurse, or an advanced registered nurse practitioner
5 licensed under chapter 152 or 152E, a dentist licensed under
6 chapter 153, an optometrist licensed under chapter 154, a
7 pharmacist licensed under chapter 155A, or any other person who
8 is licensed, certified, or otherwise authorized or permitted by
9 the law of this state to administer health care in the ordinary
10 course of business or in the practice of a profession.

11 NONECONOMIC DAMAGES IN MEDICAL MALPRACTICE CASES. The
12 bill defines "noneconomic damages" as damages arising from
13 pain, suffering, inconvenience, physical impairment, mental
14 anguish, emotional pain and suffering, loss of chance,
15 loss of consortium, or any other nonpecuniary damages. The
16 bill provides that the total amount of noneconomic damages
17 recoverable from all defendants in all civil actions, whether
18 in tort, contract, or otherwise and including derivate actions,
19 that arise out of an act or omission in connection with the
20 provision of health care services shall not exceed two hundred
21 fifty thousand dollars. However, the limitation does not apply
22 as to a defendant if that defendant's actions constituted
23 actual malice.

24 CONTINGENCY FEES. Under current law, in any action for
25 personal injury or wrongful death against any physician and
26 surgeon, osteopathic physician and surgeon, dentist, podiatric
27 physician, optometrist, pharmacist, chiropractor, nurse, or
28 hospital, based upon the alleged negligence of the licensee
29 in the practice of that profession or occupation, or upon the
30 alleged negligence of the hospital in patient care, the court
31 determines the reasonableness of any contingent fee arrangement
32 between the plaintiff and the plaintiff's attorney. The bill
33 provides that a court shall also review the reasonableness of
34 a contingent fee in a negligence case involving an advanced
35 registered nurse practitioner, physician assistant, or a

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 residential care facility, a nursing facility, an intermediate
2 care facility for persons with mental illness, or an
3 intermediate care facility for persons with an intellectual
4 disability. The bill also provides that the contingent fee
5 shall not exceed 35 percent of the total settlement or award
6 unless the plaintiff or the plaintiff's attorney petitions the
7 court for a greater amount and the court determines that the
8 additional amount is fair and reasonable.

9 EXPERT WITNESSES IN MEDICAL MALPRACTICE CASES. The
10 bill provides standards for an expert witness in a medical
11 malpractice case. The bill provides that a person is
12 only qualified to serve as an expert witness in a medical
13 malpractice case if the person is a licensed health care
14 provider, is in good standing in each state of licensure, and
15 in the five years preceding the act or omission alleged to
16 be negligent, has not had a license in any state revoked or
17 suspended; in the five years preceding the act or omission
18 alleged to be negligent, actively practiced in the same field
19 as the defendant or was a qualified instructor at an accredited
20 university in the same field as the defendant; practiced or
21 provided instruction in the same or substantially similar
22 specialty as the defendant; is trained and experienced in the
23 same discipline or school of practice as the defendant or
24 has specialty expertise in the disease process or procedure
25 performed in the case; and, if the defendant is board-certified
26 in a specialty, the person is certified in the same specialty.

27 The bill provides that a person who is not licensed in Iowa
28 but is licensed in another state and who testifies as an expert
29 witness in a medical malpractice case shall be deemed to hold
30 a temporary license to practice in Iowa and shall be subject
31 to the authority of the applicable licensing board in Iowa
32 including but not limited to Code section 147.55.

33 The bill establishes a requirement for a certificate of
34 merit affidavit for expert witnesses in medical malpractice
35 cases. In an action for personal injury or wrongful death

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 against a health care provider based upon alleged negligence
2 in the practice of that profession or in patient care, the
3 bill requires the plaintiff, within 90 days of the defendant's
4 answer, to serve upon the defendant a certificate of merit
5 affidavit for each expert witness who will testify with respect
6 to the issues of standard of care, breach of standard of care,
7 or causation. A certificate of merit affidavit must be signed
8 by the expert witness and certify the purpose for calling
9 the expert witness by providing under the oath of the expert
10 witness the expert witness's statement of familiarity with the
11 applicable standard of care; statement that the standard of
12 care was breached by the health care provider; statement of the
13 actions that the health care provider failed to take or should
14 have taken; and statement of the manner by which the breach of
15 the standard of care was the cause of the injury.

16 The bill provides that answers to interrogatories may
17 serve as an expert witness's certificate of merit affidavit
18 if the interrogatories satisfy the requirements of the bill.
19 The bill provides that the expert witness's certificate of
20 merit affidavit does not preclude additional discovery and
21 supplementation of the expert witness's opinions.

22 The bill provides that failure to substantially comply with
23 the new requirements shall result, upon motion, in dismissal
24 with prejudice of each cause of action as to which expert
25 witness testimony is necessary to establish a prima facie
26 case. A written notice of deficiency may be served upon the
27 plaintiff for failure to comply with the bill requirements
28 because of deficiencies in the certificate of merit affidavit
29 or answers to interrogatories, and the plaintiff shall have 20
30 days to cure the deficiency. Failure to comply within the 20
31 days shall result, upon motion, in mandatory dismissal with
32 prejudice of each action as to which expert witness testimony
33 is necessary to establish a prima facie case.

34 EVIDENCE-BASED MEDICAL PRACTICE GUIDELINES. The bill
35 defines "evidence-based medical practice guidelines" as

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 voluntary medical practice parameters or protocols established
2 and released through a recognized physician consensus-building
3 organization.

4 The bill provides that in any action for personal injury
5 or wrongful death against a health care provider based
6 upon the alleged negligence of the health care provider in
7 patient care, the health care provider may establish as an
8 affirmative defense that the health care provider complied with
9 evidence-based medical practice guidelines in the diagnosis and
10 treatment of the patient.

11 The bill provides that the court shall admit evidence-based
12 medical practice guidelines into evidence if introduced by a
13 health care provider or the health care provider's employer
14 and if the health care provider or the health care provider's
15 employer submits evidence that the evidence-based medical
16 practice guideline was appropriate for the patient and that
17 the health care provider complied with such evidence-based
18 medical practice guidelines. Evidence of departure from a
19 guideline is admissible only on the issue of whether the health
20 care provider is entitled to establish an affirmative defense
21 under the bill. There shall be no presumption of negligence
22 if a health care provider did not adhere to an evidence-based
23 medical practice guideline.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1088 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act providing immunity from certain criminal offenses and
2 prohibiting certain disciplinary sanctions for persons who
3 report, seek, or require emergency assistance for alcohol or
4 drug-related overdoses or protection from certain crimes,
5 and modifying penalties.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1737XC (2) 87
jh/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. Section 123.46, Code 2017, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 7. A person shall not be charged or
4 prosecuted for a violation of this section if the person is
5 immune from charge or prosecution pursuant to section 701.12.

6 Sec. 2. Section 123.47, Code 2017, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 9. A person shall not be charged or
9 prosecuted for a violation of subsection 3 or 4 if the person
10 is immune from charge or prosecution pursuant to section
11 701.12.

12 Sec. 3. Section 123.47B, Code 2017, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 1A. If a person under the age of
15 eighteen is discovered consuming or to be in possession of
16 alcoholic liquor, wine, or beer, but the person is immune from
17 prosecution under section 701.12, a peace officer shall make a
18 reasonable effort to identify the person and notify a juvenile
19 court officer of such person's consumption or possession.

20 Sec. 4. Section 124.401, Code 2017, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 6. A person shall not be charged or
23 prosecuted for a violation of subsection 1 or 5 if the person
24 is immune from charge or prosecution pursuant to section
25 701.12.

26 Sec. 5. Section 124.407, Code 2017, is amended by adding the
27 following new unnumbered paragraph:

28 NEW UNNUMBERED PARAGRAPH. A person shall not be charged or
29 prosecuted for a violation of this section if the person is
30 immune from charge or prosecution pursuant to section 701.12.

31 Sec. 6. Section 124.414, Code 2017, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 4. A person shall not be charged or
34 prosecuted for a violation of this section if the person is
35 immune from charge or prosecution pursuant to section 701.12.

LSB 1737XC (2) 87

-1-

jh/nh

1/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Sec. 7. Section 262.9, Code 2017, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 39. Prohibit an institution of higher
4 education under its control from imposing any of the following
5 disciplinary sanctions against a student for possession or
6 consumption of alcohol or a controlled substance or possession
7 of drug paraphernalia if the student is immune from charge or
8 prosecution pursuant to section 701.12:

- 9 *a.* Removal from a course.
10 *b.* Enrollment restrictions in a course or program.
11 *c.* Suspension or expulsion from the university.
12 *d.* Eviction or exclusion from student housing.

13 Sec. 8. Section 321.216B, Code 2017, is amended to read as
14 follows:

15 **321.216B Use of driver's license or nonoperator's**
16 **identification card by underage person to obtain alcohol.**

17 1. A person who is under the age of twenty-one, who alters
18 or displays or has in the person's possession a fictitious
19 or fraudulently altered driver's license or nonoperator's
20 identification card and who uses the license to violate or
21 attempt to violate [section 123.47](#), commits a simple misdemeanor
22 punishable as a scheduled violation under section 805.8A,
23 subsection 4. The court shall forward a copy of the conviction
24 to the department.

25 2. A person shall not be charged or prosecuted for a
26 violation of this section if the person is immune from charge
27 or prosecution pursuant to section 701.12.

28 Sec. 9. Section 321.284, Code 2017, is amended by adding the
29 following new subsection:

30 NEW SUBSECTION. 3. A person shall not be charged or
31 prosecuted for a violation of this section if the person is
32 immune from charge or prosecution pursuant to section 701.12.

33 Sec. 10. Section 321.284A, Code 2017, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 6. A person shall not be charged or

LSB 1737XC (2) 87

-2-

jh/nh

2/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 prosecuted for a violation of this section if the person is
2 immune from charge or prosecution pursuant to section 701.12.

3 Sec. 11. NEW SECTION. 701.12 **Persons seeking emergency**
4 **assistance for overdose or crime victims — immunity.**

5 1. A person shall not be charged or prosecuted for the
6 violation of any of the following offenses if the evidence
7 for the charge was obtained as a result of the person in good
8 faith seeking emergency assistance for the person or another
9 person due to an alcohol or drug-related overdose or because
10 the person or other person is a victim of a crime prohibited by
11 chapter 708, 709, or 710A:

12 a. Section 123.46.

13 b. Section 123.47, subsection 3 or 4.

14 c. Section 124.401, subsection 1 or 5.

15 d. Section 124.407.

16 e. Section 124.414.

17 f. Section 321.216B.

18 g. Section 321.284.

19 h. Section 321.284A.

20 2. To be eligible for immunity under this section, the
21 reporting person, or persons acting in concert, must do all of
22 the following:

23 a. Be the first person to seek emergency assistance.

24 b. Provide the reporting person's name and contact
25 information to medical or law enforcement personnel.

26 c. Remain on the scene until assistance arrives or is
27 provided.

28 d. Cooperate with medical and law enforcement personnel.

29 3. The person for whom emergency assistance was sought as
30 described in subsection 1 shall not be charged or prosecuted
31 for an offense listed in subsection 1.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill provides immunity from certain criminal offenses

LSB 1737XC (2) 87

-3-

jh/nh

3/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 and prohibits certain disciplinary sanctions for certain
2 persons who seek or require emergency assistance for alcohol or
3 drug-related overdoses or protection from certain crimes.

4 The bill creates new Code section 701.12, which provides
5 that a person shall not be charged or prosecuted for public
6 intoxication, possession of alcohol under the legal age,
7 possession or use of a controlled substance, possession of
8 drug paraphernalia, use of a driver's license by an underage
9 person to obtain alcohol, or possession of an open container in
10 a motor vehicle, if the person in good faith sought emergency
11 assistance for the person or another person due to an alcohol
12 or drug-related overdose or because the person or other
13 person is a victim of a crime prohibited by Code chapter 708
14 (assault), 709 (sexual abuse), or 710A (human trafficking).
15 A person seeking emergency assistance is only eligible for
16 immunity if the person, or persons acting in concert, is
17 the first person to seek emergency assistance, provides the
18 reporting person's name and contact information to medical
19 or law enforcement personnel, remains on the scene until
20 assistance arrives or is provided, and cooperates with medical
21 and law enforcement personnel. The bill also provides immunity
22 to the person for whom emergency assistance was sought.

23 Under Code section 232.52, a juvenile court may suspend
24 or revoke the driver's license or operating privilege of a
25 person under the age of 18, for a period of one year, who
26 has violated Code section 123.46 or 123.47 or Code chapter
27 124. Because the bill provides immunity to persons from those
28 provisions, a person under the age of 18 who receives immunity
29 from prosecution under the bill will not face the loss of such
30 person's driver's license for one year.

31 The bill provides that if a person under the age of 18 is
32 discovered consuming or to be in possession of alcohol but
33 receives immunity from prosecution under Code section 701.12,
34 a peace officer shall notify a juvenile court officer of
35 such person's consumption or possession. Under Code section

LSB 1737XC (2) 87

-4-

jh/nh

4/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 123.47B(2), the juvenile court officer is required to notify
2 the person's custodial parent, legal guardian, or custodian and
3 the superintendent of authority in charge of the school the
4 person attends of the consumption or possession.

5 The bill directs the board of regents to prohibit the regents
6 universities from imposing certain disciplinary sanctions
7 against a student for the possession or consumption of alcohol
8 or a controlled substance or possession of drug paraphernalia
9 if the student is immune from prosecution pursuant to new Code
10 section 701.12. The prohibited disciplinary sanctions are the
11 removal from a course, enrollment restrictions in a course
12 or program, suspension or expulsion from the university, or
13 eviction or exclusion from student housing.

14 The bill makes conforming changes.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1089 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to the commission of child endangerment by
2 allowing a sex offender access to a child or minor, and
3 providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1645XC (4) 87
jm/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. Section 726.6, subsection 1, paragraph h, Code
2 2017, is amended to read as follows:

3 h. Knowingly allows a person custody or control of, or
4 unsupervised access to a child or a minor after knowing the
5 person is required to register or is on the sex offender
6 registry as a sex offender under chapter 692A. However,
7 this paragraph does not apply to a person who is a parent or
8 guardian of a child or a minor, and who is required to register
9 as a sex offender, ~~or to a person who is married to and living~~
10 ~~with a person required to register as a sex offender.~~

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill relates to the commission of child endangerment by
15 allowing a sex offender access to a child or minor.

16 Under current law, a person who is the parent, guardian,
17 or a person having custody or control over a child or a minor
18 under the age of 18 with a mental or physical disability, or
19 a person who is a member of the household in which a child
20 or such a minor resides, commits child endangerment when the
21 person knowingly allows a sex offender custody or control of,
22 or unsupervised access to, a child or a minor after knowing the
23 sex offender is required to register or is on the sex offender
24 registry. However, there is an exception providing that the
25 person does not commit child endangerment if the sex offender
26 allowed such custody, control, or access is married to and
27 living with the person. This bill eliminates that exception.

28 The bill also specifies that the above-mentioned
29 circumstance does not apply to a person who is a parent or
30 guardian of a child or minor, and who is required to register
31 as a sex offender.

32 The criminal penalties for a person who commits child
33 endangerment range from an aggravated misdemeanor to a class
34 "B" felony punishable by no more than 50 years of confinement.

LSB 1645XC (4) 87

-1-

jm/nh

1/1

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1090 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act creating an exception to the statutory rule against
2 perpetuities and making related changes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2203XC (3) 87
jh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. Section 557.7, Code 2017, is amended to read as
2 follows:

3 **557.7 Contingent remainders.**

4 A Except as provided in section 558.68A, a contingent
5 remainder shall take effect, notwithstanding any determination
6 of the particular estate, in the same manner in which it
7 would have taken effect if it had been an executory devise
8 or a springing or shifting use, and shall, as well as such
9 limitations, be subject to the rule respecting remoteness
10 known as the rule against perpetuities, ~~exclusive of any other~~
11 ~~supposed rule respecting limitations to successive generations~~
12 ~~or double possibilities.~~

13 Sec. 2. NEW SECTION. **558.68A Exception to rule against**
14 **perpetuities.**

15 1. Notwithstanding section 558.68, a rule of law against
16 perpetuities, a suspension of the power of alienation of
17 the title to property, or a law restricting or limiting the
18 duration of trusts shall not apply with respect to any interest
19 in real or personal property held in trust if the instrument
20 creating the trust specifically states that such rule or the
21 provisions of section 558.68 shall not apply to the trust and
22 if either the trustee of the trust has unlimited power to sell
23 all trust assets or if one or more persons, one of whom may be
24 the trustee, has unlimited power to terminate the entire trust.

25 2. A trust of real or personal property created by
26 an employer as part of a stock bonus plan, pension plan,
27 disability or death benefit plan, or profit sharing plan, for
28 the benefit of some or all the employer's employees, to which
29 contributions are made by the employer or employees, or both,
30 for the purposes of distributing to the employees or their
31 beneficiaries the earnings or the principal, or both, of such
32 trust is not invalid as violating the rule against perpetuities
33 or any other law restricting or limiting the duration of
34 trusts; but the trust may continue for the time that is
35 necessary to accomplish the purposes for which it was created.

LSB 2203XC (3) 87

-1-

jh/rj

1/2

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1091 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to search warrants, by allowing an application
2 for and the issuance of a search warrant by electronic
3 means, and allowing for the written inventory of any
4 property seized to be filed with the clerk of the district
5 court.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1658XC (3) 87
jm/rh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. Section 602.1614, subsection 3, Code 2017, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *Om.* Establishing processes and procedures
4 for an application and for the issuance of a search warrant
5 under chapter 808 by electronic means.

6 Sec. 2. Section 808.1, subsection 2, Code 2017, is amended
7 to read as follows:

8 2. "*Affidavit*" means a written declaration or statement
9 of fact made under oath, or legally sufficient affirmation,
10 submitted in person or by electronic submission before any
11 person authorized to administer oaths within or without the
12 state.

13 Sec. 3. Section 808.1, Code 2017, is amended by adding the
14 following new subsections:

15 NEW SUBSECTION. 3. "*Electronic*" or "*electronically*" means
16 relating to technology having electrical, digital, magnetic,
17 telephonic, wireless, optical, electromagnetic, or similar
18 capabilities. For governmental agencies, this may include
19 alternate software to exchange electronic records with the
20 court's electronic document management system.

21 NEW SUBSECTION. 4. "*Electronic submission*" means the
22 process by which a person may electronically submit an
23 application for a search warrant and any supporting documents
24 to the court for review or other court action. An application
25 for a search warrant and any supporting documents submitted
26 by electronic submission to the court through the electronic
27 document management system shall not be considered to be filed
28 with the court.

29 Sec. 4. Section 808.3, Code 2017, is amended to read as
30 follows:

31 **808.3 Application for search warrant.**

32 1. a. A person may make application for the issuance of
33 a search warrant by submitting before a magistrate a written
34 application, supported by the person's oath or affirmation,
35 which includes facts, information, and circumstances tending

LSB 1658XC (3) 87

-1-

jm/rh/rj

1/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 to establish sufficient grounds for granting the application,
2 and probable cause for believing that the grounds exist. The
3 application shall describe the person, place, or thing to
4 be searched and the property to be seized with sufficient
5 specificity to enable an independent reasonable person with
6 reasonable effort to ascertain and identify the person, place,
7 or thing.

8 b. The search warrant application and any supporting
9 documents may be submitted to the magistrate in person or
10 by electronic submission. If a search warrant is submitted
11 by electronic submission, the magistrate may use electronic
12 means to contact the person submitting the application and
13 supporting documents to confirm the identity of the person, and
14 may administer the person's oath or affirmation and accept the
15 person's sworn testimony by electronic means.

16 2. If the magistrate issues the search warrant, the
17 magistrate shall endorse on the application the name and
18 address of all persons upon whose sworn testimony the
19 magistrate relied to issue the warrant together with the
20 abstract of each witness' testimony, or the witness' affidavit.
21 However, if the grounds for issuance are supplied by an
22 informant, the magistrate shall identify only the peace officer
23 to whom the information was given. The application or sworn
24 testimony supplied in support of the application must establish
25 the credibility of the informant or the credibility of the
26 information given by the informant. The magistrate may in
27 the magistrate's discretion require that a witness upon whom
28 the applicant relies for information appear personally and be
29 examined concerning the information.

30 Sec. 5. Section 808.4, Code 2017, is amended to read as
31 follows:

32 **808.4 Issuance.**

33 Upon a finding of probable cause for grounds to issue a
34 search warrant, the magistrate shall issue a warrant, signed by
35 the magistrate with the magistrate's name of office, directed

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 to any peace officer, commanding that peace officer forthwith
2 to search the named person, place, or thing within the state
3 for the property specified, and to ~~bring any property seized~~
4 ~~before~~ file with the magistrate or clerk of the district court,
5 a written inventory itemizing all seized property. The warrant
6 may be issued electronically and if so, the peace officer shall
7 cause a printed copy of the warrant to be made for service of
8 process.

9 Sec. 6. Section 808.4A, subsection 2, Code 2017, is amended
10 to read as follows:

11 2. a. The application shall describe the person, place,
12 or thing to be tracked or monitored by a global positioning
13 device, or the removal of such a device from a person, place,
14 or thing with sufficient specificity to enable an independent
15 reasonable person with reasonable effort to ascertain and
16 identify the person, place, or thing. If the magistrate
17 issues the search warrant, the magistrate shall endorse on the
18 application the name and address of all persons upon whose
19 sworn testimony the magistrate relied to issue the warrant
20 together with the abstract of each witness' testimony, or the
21 witness' affidavit. However, if the grounds for issuance are
22 supplied by an informant, the magistrate shall identify only
23 the peace officer to whom the information was given. The
24 application or sworn testimony supplied in support of the
25 application must establish the credibility of the informant
26 or the credibility of the information given by the informant.
27 The magistrate may in the magistrate's discretion require that
28 a witness upon whom the applicant relies for the information
29 appear personally and be examined concerning the information.

30 b. The search warrant application and any supporting
31 documents may be submitted to the magistrate in person or
32 by electronic submission. If a search warrant is submitted
33 by electronic submission, the magistrate may use electronic
34 means to contact the person submitting the application and
35 supporting documents to confirm the identity of the person, and

LSB 1658XC (3) 87

-3-

jm/rh/rj

3/5

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 may administer the person's oath or affirmation and accept the
2 person's sworn testimony by electronic means.

3 Sec. 7. Section 808.8, subsection 2, Code 2017, is amended
4 to read as follows:

5 2. The officer must file, with the officer's return, a
6 complete inventory of the property taken with the magistrate
7 or clerk of the district court, and state under oath that
8 it is accurate to the best of the officer's knowledge. The
9 magistrate or clerk of the district court must, if requested,
10 deliver a copy of the inventory of seized property to the
11 person from whose possession it was taken and to the applicant
12 for the warrant.

13 Sec. 8. Section 808.11, Code 2017, is amended to read as
14 follows:

15 **808.11 Transmission of ~~papers~~ documents to district court**
16 **clerk.**

17 The magistrate who has issued a search warrant shall
18 attach to the warrant a copy of the return, inventory, if the
19 inventory has not already been filed with the clerk of the
20 district court, and all other ~~papers~~ documents in connection
21 therewith and shall file them with the clerk of the district
22 court for the county in which the property was seized.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to search warrants, by allowing an
27 application for and the issuance of a search warrant by
28 electronic means, and allowing for the written inventory of
29 any property seized to be filed with the clerk of the district
30 court.

31 The bill permits the judicial branch to establish processes
32 and procedures that allow for the electronic submission of an
33 application for and the issuance of a search warrant under
34 Code sections 808.3 (application for a search warrant), 808.4
35 (issuance of a search warrant), and 808.4A (application and

LSB 1658XC (3) 87
jm/rh/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 issuance of search warrant — global positioning device).
2 The bill defines “electronic submission” to mean the process
3 by which a person may electronically submit an application for
4 a search warrant and any supporting documents to the court
5 for review or other court action. The bill further specifies
6 that a search warrant application and any supporting documents
7 submitted by electronic submission to the court through the
8 electronic document management system shall not be considered
9 to be filed with the court.
10 The bill specifies that the written inventory of any
11 property seized after execution of the search warrant may be
12 filed with the clerk of the district court or the magistrate.
13 Current law specifies the inventory be filed with the
14 magistrate.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1092 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to mechanics' liens and public construction
2 liens.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1709XC (2) 87
jh/rh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. Section 26.3, subsection 3, Code 2017, is amended
2 to read as follows:

3 3. Sections 26.4 through ~~26.13~~ 26.12 and section 573.28
4 apply to all competitive bidding pursuant to this section.

5 Sec. 2. Section 314.1, subsection 2, Code 2017, is amended
6 to read as follows:

7 2. Notwithstanding any other provision of law to the
8 contrary, a public improvement that involves the construction,
9 reconstruction, or improvement of a highway, bridge, or culvert
10 and that has a cost in excess of the applicable threshold in
11 section 73A.18, 262.34, 297.7, 309.40, 310.14, or 313.10, as
12 modified by the bid threshold subcommittee pursuant to section
13 314.1B, shall be advertised and let for bid, except such public
14 improvements that involve emergency work pursuant to section
15 309.40A, 313.10, or 384.103, subsection 2. For a city having
16 a population of fifty thousand or less, a public improvement
17 that involves the construction, reconstruction, or improvement
18 of a highway, bridge, or culvert that has a cost in excess of
19 twenty-five thousand dollars, as modified by the bid threshold
20 subcommittee pursuant to section 314.1B, shall be advertised
21 and let for bid, excluding emergency work. However, a public
22 improvement that has an estimated total cost to a city in
23 excess of a threshold of fifty thousand dollars, as modified by
24 the bid threshold subcommittee pursuant to section 314.1B, and
25 that involves the construction, reconstruction, or improvement
26 of a highway, bridge, or culvert that is under the jurisdiction
27 of a city with a population of more than fifty thousand,
28 shall be advertised and let for bid. Cities required to
29 competitively bid highway, bridge, or culvert work shall do so
30 in compliance with the contract letting procedures of sections
31 26.3 through ~~26.13~~ 26.12 and section 573.28.

32 Sec. 3. Section 572.7, Code 2017, is amended to read as
33 follows:

34 **572.7 In case of internal improvement.**

35 When the lien is for material furnished or labor performed in

LSB 1709XC (2) 87

-1-

jh/rh

1/12

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 the construction, repair, or equipment of any railroad, canal,
2 viaduct, or other similar improvement, ~~said~~ the lien shall
3 attach to the erections, excavations, embankments, bridges,
4 roadbeds, rolling stock, and other equipment and to all land
5 upon which such improvements or property may be situated,
6 ~~except~~ including the easement or right-of-way.

7 Sec. 4. Section 572.10, Code 2017, is amended to read as
8 follows:

9 **572.10 Perfecting lien after lapse of ninety days.**

10 A ~~general contractor or a~~ subcontractor may perfect a
11 mechanic's lien pursuant to [section 572.8](#) beyond ninety days
12 after the date on which the last of the material was furnished
13 or the last of the labor was performed by posting a lien to the
14 mechanics' notice and lien registry internet site and giving
15 written notice thereof to the owner. Such notice may be served
16 by any person in the manner original notices are required to be
17 served. If the party to be served is out of the county wherein
18 the property is situated, a return of that fact by the person
19 charged with making such service shall constitute sufficient
20 service from and after the time it was posted to the mechanics'
21 notice and lien registry internet site.

22 Sec. 5. Section 572.25, Code 2017, is amended to read as
23 follows:

24 **572.25 Place of bringing action.**

25 ~~An~~ A court or arbitration action to enforce a mechanic's
26 lien shall be brought in the county in which the property to be
27 affected, or some part thereof, is situated.

28 Sec. 6. Section 572.26, Code 2017, is amended to read as
29 follows:

30 **572.26 Kinds of action — amendment.**

31 1. An action to enforce a mechanic's lien shall be by
32 equitable proceedings, and no other cause of action shall be
33 joined therewith.

34 2. a. ~~Any~~ A lien statement ~~may~~ shall not be amended except
35 by leave of court in furtherance of justice, ~~except as to the~~

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 ~~amount demanded~~ or to decrease the amount demanded.

2 b. A lien statement amended without leave of court to
3 decrease the amount demanded shall be effected through the
4 mechanics' notice and lien registry.

5 c. A lien statement amended pursuant to this section shall
6 not affect the priority of the lien statement.

7 Sec. 7. Section 572.28, subsection 1, Code 2017, is amended
8 to read as follows:

9 1. Upon the written demand of the owner or general
10 contractor served on the claimant requiring the claimant to
11 commence action to enforce the lien, such action shall be
12 commenced within thirty days thereafter, or the lien and all
13 benefits derived therefrom shall be forfeited.

14 Sec. 8. Section 572.32, Code 2017, is amended to read as
15 follows:

16 **572.32 Attorney fees — remedies.**

17 1. In a court action to enforce a mechanic's lien, a the
18 court may award the prevailing plaintiff may be awarded party
19 reasonable attorney fees to be taxed as part of the costs in
20 the case.

21 2. In a court action to challenge a mechanic's lien
22 posted on a residential construction property, ~~if the person~~
23 ~~challenging the lien prevails,~~ the court may award the
24 prevailing party reasonable attorney fees ~~and actual damages~~
25 to be taxed as part of the costs in the case. If the court
26 determines that the mechanic's lien was posted in bad faith or
27 the supporting affidavit was materially false, the court shall
28 award the ~~owner~~ person challenging the lien reasonable attorney
29 fees plus an amount not less than five hundred dollars or the
30 amount of the lien, whichever is less.

31 Sec. 9. Section 573.2, unnumbered paragraph 2, Code 2017,
32 is amended to read as follows:

33 If the requirement for a bond is waived pursuant to section
34 12.44, a person, firm, or corporation, having a contract with
35 the targeted small business or with subcontractors of the

LSB 1709XC (2) 87

-3-

jh/rh

3/12

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 targeted small business, for labor performed or materials
2 furnished, in the performance of the contract on account of
3 which the bond was waived, is entitled to any remedy provided
4 under this chapter. When a bond has been waived pursuant to
5 section 12.44, or if the public corporation fails to procure
6 a bond, the remedies provided for under this paragraph are
7 available in an action against the public corporation.

8 Sec. 10. Section 573.15, Code 2017, is amended by striking
9 the section and inserting in lieu thereof the following:

10 **573.15 Exception.**

11 A person, firm, or corporation that has performed labor
12 or furnished materials, service, or transportation to a
13 subcontractor shall not be entitled to a claim against the
14 retainage or bond under this chapter unless the person,
15 firm, or corporation that performed the labor or furnished
16 the materials, service, or transportation does all of the
17 following:

18 1. Notifies the principal contractor in writing with a
19 one-time notice containing the name, mailing address, and
20 telephone number of the person, firm, or corporation that
21 performed the labor or furnished the materials, service,
22 or transportation, and the name of the subcontractor for
23 whom the labor was performed or the materials, service, or
24 transportation were furnished, within thirty days of first
25 performing the labor or furnishing the materials, service, or
26 transportation for which a claim may be made. Additional labor
27 performed or materials, service, or transportation furnished by
28 the same person, firm, or corporation to the same subcontractor
29 for use in the same construction project shall be covered by
30 this notice.

31 2. Supports the claim with a certified statement that
32 the principal contractor received the notice described in
33 subsection 1.

34 Sec. 11. Section 573.16, unnumbered paragraph 2, Code 2017,
35 is amended to read as follows:

LSB 1709XC (2) 87

-4-

jh/rh

4/12

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Upon written demand of the public corporation, principal
2 contractor, or surety on any bond given for the performance
3 of the contract served, in the manner prescribed for original
4 notices, on the person filing a claim, requiring the claimant
5 to commence action in court to enforce the claim, an action
6 shall be commenced within thirty days, otherwise the retained
7 and unpaid funds due the principal contractor shall be
8 released. Unpaid funds shall be paid to the principal
9 contractor within twenty days of the receipt by the public
10 corporation of the release as determined pursuant to this
11 section. Failure to make payment by that date shall cause
12 interest to accrue on the unpaid amount. Interest shall accrue
13 during the period commencing the twenty-first day after the
14 date of release and ending on the date of the payment. The
15 rate of interest shall be determined pursuant to section
16 573.14. After an action is commenced, upon the general
17 Upon the surety on any bond given for the performance of
18 the contract consenting, in writing, to the release of the
19 principal contractor of the unpaid funds, or upon the principal
20 contractor filing with the public corporation or person
21 withholding the funds, a surety bond in double the amount of
22 the claim in controversy, conditioned to pay upon the payment
23 of any final judgment rendered for the claims so filed, the
24 public corporation or person shall pay to the contractor the
25 amount of funds withheld.

26 Sec. 12. Section 573.21, Code 2017, is amended to read as
27 follows:

28 **573.21 Attorney fees.**

29 The court or arbitrator may tax, as part of the costs in the
30 case, a reasonable attorney fee fees in favor of the prevailing
31 party in any claimant for labor or materials who has, in whole
32 or in part, established court or arbitration action brought to
33 enforce a claim filed pursuant to section 573.7.

34 Sec. 13. NEW SECTION. 573.28 Early release of retained
35 funds.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 1. For purposes of this section:

2 a. *"Authorized contract representative"* means the person
3 chosen by the governmental entity or the department to
4 represent its interests or the person designated in the
5 contract as the party representing the governmental entity's
6 or the department's interest regarding administration and
7 oversight of the project.

8 b. *"Department"* means the state department of
9 transportation.

10 c. *"Governmental entity"* means the state, political
11 subdivisions of the state, public school corporations, and all
12 officers, boards, or commissions empowered by law to enter
13 into contracts for the construction of public improvements,
14 excluding the state board of regents and the department.

15 d. *"Public improvement"* means a building or construction
16 work which is constructed under the control of a governmental
17 entity and is paid for in whole or in part with funds of the
18 governmental entity, including a building or improvement
19 constructed or operated jointly with any other public or
20 private agency, but excluding urban renewal demolition and
21 low-rent housing projects, industrial aid projects authorized
22 under chapter 419, emergency work or repair or maintenance
23 work performed by employees of a governmental entity, and
24 excluding a highway, bridge, or culvert project, and excluding
25 construction or repair or maintenance work performed for a city
26 utility under chapter 388 by its employees or performed for a
27 rural water district under chapter 357A by its employees.

28 e. *"Repair or maintenance work"* means the preservation of a
29 building, storm sewer, sanitary sewer, or other public facility
30 or structure so that it remains in sound or proper condition,
31 including minor replacements and additions as necessary to
32 restore the public facility or structure to its original
33 condition with the same design.

34 f. *"Substantially completed"* means the first date on which
35 any of the following occurs:

LSB 1709XC (2) 87

-6-

jh/rh

6/12

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 (1) Completion of the public improvement project or the
2 highway, bridge, or culvert project or when the work on the
3 public improvement or the highway, bridge, or culvert project
4 has been substantially completed in general accordance with the
5 terms and provisions of the contract.

6 (2) The work on the public improvement or on the designated
7 portion is substantially completed in general accordance with
8 the terms of the contract so that the governmental entity or
9 the department can occupy or utilize the public improvement or
10 designated portion of the public improvement for its intended
11 purpose. This subparagraph shall not apply to highway, bridge,
12 or culvert projects.

13 (3) The public improvement project or the highway, bridge,
14 or culvert project is certified as having been substantially
15 completed by either of the following:

16 (a) The architect or engineer authorized to make such
17 certification.

18 (b) The authorized contract representative.

19 (4) The governmental entity or the department is occupying
20 or utilizing the public improvement for its intended purpose.
21 This subparagraph shall not apply to highway, bridge, or
22 culvert projects.

23 2. Payments made by a governmental entity or the department
24 for the construction of public improvements and highway,
25 bridge, or culvert projects shall be made in accordance with
26 the provisions of this chapter, except as provided in this
27 section:

28 a. At any time after all or any part of the work on the
29 public improvement or highway, bridge, or culvert project is
30 substantially completed, the contractor may request the release
31 of all or part of the retained funds owed. The request shall be
32 accompanied by a sworn statement of the contractor that, ten
33 calendar days prior to filing the request, notice was given as
34 required by paragraphs "f" and "g" to all known subcontractors,
35 sub-subcontractors, and suppliers.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 *b.* Except as provided under paragraph "*c*", upon receipt of
2 the request, the governmental entity or the department shall
3 release all or part of the retained funds. Retained funds that
4 are approved as payable shall be paid at the time of the next
5 monthly payment or within thirty days, whichever is sooner. If
6 partial retained funds are released pursuant to a contractor's
7 request, no retained funds shall be subsequently held based
8 on that portion of the work. If within thirty days of when
9 payment becomes due the governmental entity or the department
10 does not release the retained funds due, interest shall accrue
11 on the amount of retained funds at the rate of interest that is
12 calculated as the prime rate plus one percent per year as of
13 the day interest begins to accrue until the amount is paid.

14 *c.* If labor and materials are yet to be provided at the
15 time the request for the release of the retained funds is made,
16 an amount equal to two hundred percent of the value of the
17 labor or materials yet to be provided, as determined by the
18 governmental entity's or the department's authorized contract
19 representative, may be withheld until such labor or materials
20 are provided.

21 *d.* An itemization of the labor or materials yet to be
22 provided, or the reason that the request for release of
23 retained funds is denied, shall be provided to the contractor
24 in writing within thirty calendar days of the receipt of the
25 request for release of retained funds.

26 *e.* The contractor shall release retained funds to the
27 subcontractor or subcontractors in the same manner as retained
28 funds are released to the contractor by the governmental entity
29 or the department. Each subcontractor shall pass through to
30 each lower-tier subcontractor all retained fund payments from
31 the contractor.

32 *f.* Prior to applying for release of retained funds, the
33 contractor shall send a notice to all known subcontractors,
34 sub-subcontractors, and suppliers that provided labor or
35 materials for the public improvement project or the highway,

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 bridge, or culvert project.

2 g. The notice shall be substantially similar to the
3 following:

4 NOTICE OF CONTRACTOR'S REQUEST

5 FOR EARLY RELEASE OF RETAINED FUNDS

6 You are hereby notified that [name of contractor] will be
7 requesting an early release of funds on a public improvement
8 project or a highway, bridge, or culvert project designated as
9 [name of project] for which you have or may have provided labor
10 or materials. The request will be made pursuant to Iowa Code
11 section 573.28. The request may be filed with the [name of
12 governmental entity or department] after ten calendar days from
13 the date of this notice. The purpose of the request is to have
14 [name of governmental entity or department] release and pay
15 funds for all work that has been performed and charged to [name
16 of governmental entity or department] as of the date of this
17 notice. This notice is provided in accordance with Iowa Code
18 section 573.28.

19 Sec. 14. REPEAL. Section 26.13, Code 2017, is repealed.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill relates to mechanics' liens and public
24 construction liens.

25 MECHANIC'S LIENS. Under current law, when a mechanic's
26 lien is for material furnished or labor performed in the
27 construction, repair, or equipment of any railroad, canal,
28 viaduct, or other similar improvement, the lien does not attach
29 to an easement or right-of-way. The bill provides that such a
30 mechanic's lien does attach to an easement or right-of-way.

31 Under Code section 572.8, a person shall perfect a
32 mechanic's lien by posting to the mechanics' notice and lien
33 registry internet site a verified statement of account of
34 the demand due the person setting forth certain specified
35 information. Currently, if a general contractor or a

LSB 1709XC (2) 87

-9-

jh/rh

9/12

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 subcontractor has not posted the mechanic's lien to the
2 registry within 90 days after the date on which the last
3 of the material was furnished or the last of the labor was
4 performed, the general contractor or subcontractor must post
5 the mechanic's lien on the registry and serve the owner with
6 notice of the posting to perfect the lien. The bill provides
7 that only a subcontractor must post the mechanic's lien and
8 serve the owner to perfect the mechanic's lien.

9 Under current law, a court action to enforce a mechanic's
10 lien must be brought in the county in which the property to be
11 affected is situated. The bill provides that same rule applies
12 to arbitration actions.

13 Under current law, a lien statement may only be amended by
14 leave of court in furtherance of justice or as to the amount
15 demanded. The bill provides that a lien statement may only be
16 amended by leave of court in further of justice or to decrease
17 the amount demanded. An amendment to decrease the amount
18 demanded must be accomplished through the mechanics' notice
19 and lien registry. The bill provides that amending a lien
20 statement by leave of court in furtherance of justice or to
21 decrease the amount demanded does not affect the priority of
22 the lien statement.

23 Under current law, the owner of property subject to a
24 mechanic's lien may serve written demand on the claimant
25 requiring the claimant to commence action to enforce the lien
26 within 30 days of the notice. If the claimant fails to do so,
27 the lien and all benefits derived therefrom are forfeited.
28 The bill provides that, in addition to an owner, a general
29 contractor may make such a demand.

30 Under current law, in a court action to enforce a mechanic's
31 lien, the court may award a prevailing plaintiff reasonable
32 attorney fees. The bill provides that the court may award
33 attorney fees to any prevailing party in an action to enforce
34 a mechanic's lien.

35 Under current law, in a court action to challenge a

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 mechanic's lien posted on a residential construction property,
2 the court may award reasonable attorney fees and actual damages
3 to the person challenging the lien if such person prevails.
4 The bill provides that the court may award reasonable attorney
5 fees to the prevailing party in an action to challenge a
6 mechanic's lien posted on a residential construction property.
7 PUBLIC CONSTRUCTION LIENS. Under Code chapter 573 (labor
8 and material on public improvements), and subject to certain
9 exceptions, contracts for construction of public improvements
10 must be accompanied by a bond if the contract price equals
11 or exceeds \$25,000. The bill provides that if the public
12 corporation fails to procure a bond, the public corporation is
13 liable to claimants for the contractor's nonpayment.
14 Current Code section 573.15 provides an exception to the
15 requirement that a public corporation retain a portion of funds
16 due a contractor on a public improvement project in a fund
17 for the payment of claims for materials furnished and labor
18 performed. The exception provides that a public corporation
19 need only retain funds due a supplier of material to a general
20 contractor if the supplier provides the general contractor
21 with one of two permitted types of notice after the materials
22 are supplied. The bill provides that, in addition to claims
23 for materials, the exception shall apply to claims for labor,
24 service, or transportation. The bill also amends the notice
25 requirement to provide that a supplier of labor, materials,
26 service, or transportation to a general contractor must give
27 only one type of notice, along with a certified statement that
28 such notice was given.
29 Current Code section 573.16 provides that even if a claimant
30 has commenced an action for payment of funds, the public
31 corporation shall release the unpaid funds to the contractor if
32 the contractor files a surety bond in double the amount of the
33 claim in controversy, conditioned upon the payment of any final
34 judgment rendered for the claims. The bill provides that the
35 unpaid funds shall also be released to the contractor if the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 surety on any bond given for the performance of the contract

2 gives written consent to the release of the unpaid funds.

3 Current Code section 573.21 provides that if a claimant

4 establishes a claim for labor or materials under Code chapter

5 573, the court may tax reasonable attorney fees in favor of the

6 claimant. The bill provides that a court or arbitrator may tax

7 reasonable attorney fees in favor of any prevailing party in

8 a court or arbitrator action brought for labor or materials

9 under Code chapter 573.

10 The bill repeals Code section 26.13 (public construction

11 bidding — early release of retained funds) and creates new

12 Code section 573.28 with the same language except for corrected

13 internal references.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1093 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to termination of parental rights and adoption
2 proceedings, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1731XC (7) 87
pf/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. Section 422.9, subsection 2, paragraph c, Code
2 2017, is amended to read as follows:

3 c. Add the amount by which expenses paid or incurred
4 in connection with the adoption of a child by the taxpayer
5 exceed three percent of the net income of the taxpayer, or of
6 the taxpayer and spouse in the case of a joint return. The
7 expenses may include medical and hospital expenses of the
8 biological mother which are incident to the child's birth and
9 are paid by the taxpayer, welfare agency fees, legal fees, and
10 all other fees and costs relating to the adoption of a child if
11 the child is placed by a ~~child-placing agency licensed under~~
12 ~~chapter 238~~ or by a person making an independent placement
13 an adoption service provider according to the provisions of
14 chapter 600. If the taxpayer claims an adoption tax credit
15 under section 422.12A, the taxpayer shall recompute for
16 purposes of this subsection the amount of the deduction by
17 excluding the amount of qualified adoption expenses, as defined
18 in section 422.12A, used in computing the adoption tax credit.

19 Sec. 2. Section 422.12A, subsection 1, paragraph a, Code
20 2017, is amended to read as follows:

21 a. "Adoption" means the permanent placement in this state
22 of a child by the department of human services, by a ~~licensed~~
23 ~~agency under chapter 238~~ an adoption service provider as
24 defined in section 600A.2, or, by an agency that meets the
25 provisions of the interstate compact in section 232.158, ~~or~~
26 ~~by a person making an independent placement according to the~~
27 ~~provisions of chapter 600.~~

28 Sec. 3. Section 600.2, subsection 1, Code 2017, is amended
29 to read as follows:

30 1. "Child", "parent", "parent-child relationship",
31 "termination of parental rights", "biological parent",
32 "stepparent", "guardian", "custodian", "guardian ad litem",
33 "minor", "adoption service provider", "certified adoption
34 investigator", "adult", "agency", "department", "court", and
35 "juvenile court", "independent placement" mean the same as

LSB 1731XC (7) 87

-1-

pf/nh

1/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 defined in [section 600A.2](#).

2 Sec. 4. Section 600.8, subsection 1, paragraph c,
3 subparagraph (1), Code 2017, is amended to read as follows:

4 (1) A background information investigation of the medical
5 and social history of the biological parents of the minor
6 person to be adopted and a report of the investigation shall be
7 made by the ~~agency, the person making an independent placement~~
8 adoption service provider, the department, or an a certified
9 adoption investigator prior to the placement of the minor
10 person to be adopted with any prospective adoption petitioner.

11 Sec. 5. Section 600.8, subsection 2, paragraph a,
12 subparagraph (1), Code 2017, is amended to read as follows:

13 (1) A preplacement investigation and report of the
14 investigation shall be completed and the prospective adoption
15 petitioner approved for a placement by the person making the
16 investigation prior to any ~~agency or independent adoption~~
17 service provider or department placement of a minor person in
18 the petitioner's home in anticipation of an ensuing adoption.

19 Sec. 6. Section 600.8, subsections 3, 4, 8, and 10, Code
20 2017, are amended to read as follows:

21 3. The department, an agency, or ~~an a certified adoption~~
22 investigator shall conduct all investigations and reports
23 required under [subsection 2](#) ~~of this section~~.

24 4. A postplacement investigation and the report of the
25 investigation shall be completed and filed with the juvenile
26 court or court prior to the holding of the adoption hearing
27 prescribed in [section 600.12](#). Upon the filing of an adoption
28 petition pursuant to [section 600.5](#), the juvenile court or
29 court shall immediately appoint the department, an agency, or
30 ~~an a certified adoption~~ investigator to conduct and complete
31 the postplacement report. Any person who has gained relevant
32 background information concerning a minor person subject to an
33 adoption petition shall, upon request, fully cooperate with the
34 conducting of the postplacement investigation by disclosing any
35 relevant information requested, whether contained in sealed

LSB 1731XC (7) 87
pf/nh

2/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 records or not.

2 8. Any person designated to make an investigation and report
3 under this section may request an agency, certified adoption
4 investigator, or state agency, within or outside this state,
5 to conduct a portion of the investigation or the report, as
6 may be appropriate, and to file a supplemental report of such
7 investigation or report with the juvenile court or court.

8 In the case of the adoption of a minor person by a person
9 domiciled or residing in any other jurisdiction of the United
10 States, any investigation or report required under this section
11 which has been conducted pursuant to the standards of that
12 other jurisdiction shall be recognized in this state.

13 10. The department, ~~or~~ an agency, or a certified adoption
14 investigator may conduct any investigations required for
15 an interstate or interagency placement. Any interstate
16 investigations or placements shall follow the procedures and
17 regulations under the interstate compact on the placement of
18 children. Such investigations and placements shall be in
19 compliance with the laws of the states involved.

20 Sec. 7. Section 600.9, Code 2017, is amended to read as
21 follows:

22 **600.9 Report of expenditures — penalty.**

23 1. a. A biological parent shall not receive any thing of
24 value as a result of the biological parent's child or former
25 child being placed with and adopted by another person, unless
26 that thing of value is an allowable expense under subsection 2.

27 b. Any person assisting in any way with the placement or
28 adoption of a minor person shall not charge a fee which is
29 more than usual, necessary, and commensurate with the services
30 rendered.

31 c. If the biological parent receives any prohibited thing
32 of value, if a person gives a prohibited thing of value, or if
33 a person charges a prohibited fee under this subsection, the
34 person is guilty of a ~~simple~~ serious misdemeanor.

35 2. a. An adoption petitioner of a minor person shall

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 file with the juvenile court or court, prior to the adoption
2 hearing, a full accounting of all disbursements of any
3 thing of value paid or agreed to be paid by or on behalf of
4 the petitioner in connection with the petitioned adoption.
5 This accounting shall be made by a report prescribed by the
6 juvenile court or court and shall be signed and verified by the
7 petitioner. The report shall be accompanied by documentation
8 of all disbursements made prior to the date of filing of
9 the report. Only expenses incurred in connection with the
10 following and any other expenses approved by the juvenile court
11 or court are allowable:

12 (1) The birth of the minor person to be adopted.

13 (2) Placement of the minor person ~~with~~ by the adoption
14 ~~petitioner and legal~~ service provider.

15 (3) Legal expenses related to the termination of parental
16 rights and adoption processes.

17 ~~(3)~~ (4) Pregnancy-related medical care received by the
18 biological parents or the minor person during the pregnancy
19 or delivery of the minor person and for medically necessary
20 postpartum care for the biological parent and the minor person.

21 ~~(4)~~ (5) Living Ordinary and necessary living expenses of
22 the mother, permitted in an amount not to exceed including but
23 not limited to the cost of room and board or rent and costs
24 of housing, food, utilities, and transportation, for medical
25 purposes only, on a common carrier of persons or an ambulance
26 related to the pregnancy and birth of the child, in an amount
27 not to exceed two thousand dollars and for no longer than
28 thirty days after the birth of the minor person.

29 ~~(5)~~ (6) Costs of the counseling provided to the biological
30 parents prior to the birth of the child, prior to the release
31 of custody, and any counseling provided to the biological
32 parents for not more than sixty days after the birth of the
33 child.

34 ~~(6)~~ (7) Living expenses or care of the minor person if the
35 minor person is placed in foster care during the pendency of

LSB 1731XC (7) 87

-4-

pf/nh

4/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 the termination of parental rights proceedings.

2 b. All payments for allowable expenses shall be made through
3 the adoption service provider. An adoption service provider
4 shall deposit all funds received from prospective adoptive
5 parents as payments for allowable expenses for a designated
6 biological parent into an escrow account established with a
7 financial institution located in this state whose accounts
8 are insured by the federal deposit insurance corporation, the
9 national credit union administration, or the federal savings
10 and loan insurance corporation. Such escrow funds shall not
11 be commingled with other revenues or expense accounts of the
12 adoption service provider and separate accounting shall be
13 maintained for each prospective adoptive parent whose funds
14 are deposited in the escrow account. Any escrow funds not
15 disbursed by the adoption service provider for the benefit
16 of the designated biological parent shall be returned to the
17 prospective adoptive parents with a full accounting of all
18 deposits and disbursements. If the adoption service provider
19 is a licensed attorney, use of the attorney's state-sanctioned
20 trust account shall satisfy the requirements relative to the
21 escrow account under this paragraph.

22 ~~b. c.~~ All Any payments for allowable expenses shall be made
23 to the provider, if applicable, and not directly be made to the
24 a biological parents parent, but instead shall be made directly
25 to the provider of the service, product, or other activity to
26 which the allowable expense is attributable, if applicable.

27 d. The provisions of this subsection do not apply in a
28 stepparent adoption.

29 3. The juvenile court or court shall review the report prior
30 to the adoption hearing and shall include findings regarding
31 the allowance or disallowance of any disbursements or projected
32 disbursements in the adoption decree.

33 **Sec. 8. NEW SECTION. 600.9A Prohibited practices —**
34 **penalties.**

35 1. All of the following are prohibited practices regarding a

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 proceeding under this chapter:

2 *a.* The provision of termination of parental rights, child
3 placement, or adoption services to any biological or adoptive
4 parent by any person other than an adoption service provider
5 or the department.

6 *b.* The charging of a fee by an adoption service provider
7 that is more than the usual and necessary fee commensurate with
8 the services rendered.

9 *c.* The facilitation, encouragement, or advisement of
10 adoptive parents by an adoption service provider to provide any
11 thing of value beyond those expenditures allowed pursuant to
12 section 600.9.

13 *d.* The knowing encouragement or solicitation of payment of
14 allowable expenses or provision of anything of value beyond
15 those expenditures allowed pursuant to section 600.9, by a
16 person falsely representing that a child may be available for
17 adoption with the intent to defraud the other person.

18 2. A person who commits a prohibited practice under this
19 section is guilty of a serious misdemeanor for the first
20 violation and a class "C" felony for any second or subsequent
21 violation.

22 Sec. 9. Section 600.13, subsection 5, Code 2017, is amended
23 to read as follows:

24 5. An interlocutory or a final adoption decree shall be
25 entered with the clerk of court. Such decree shall set forth
26 any facts of the adoption petition which have been proven to
27 the satisfaction of the juvenile court or court and any other
28 facts considered to be relevant by the juvenile court or court
29 and shall grant the adoption petition. If so designated in
30 the adoption decree, the name of the adopted person shall be
31 changed by issuance of that decree. The clerk of the court
32 shall, within thirty days of issuance, deliver one certified
33 copy of any adoption decree to the petitioner, one copy of any
34 adoption decree to the department and any ~~agency or person~~
35 ~~making an independent placement~~ adoption service provider who

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 placed a minor person for adoption, and one certification
2 of adoption as prescribed in [section 144.19](#) to the state
3 registrar of vital statistics at no charge. Upon receipt of
4 the certification, the state registrar shall prepare a new
5 birth certificate pursuant to [section 144.23](#) and deliver to
6 the parents named in the decree and any adult person adopted
7 by the decree a copy of the new birth certificate. The parents
8 shall pay the fee prescribed in [section 144.46](#). If the person
9 adopted was born outside this state but in the United States,
10 the state registrar shall forward the certification of adoption
11 to the appropriate agency in the state of birth. A copy of any
12 interlocutory adoption decree vacation shall be delivered and
13 another birth certificate shall be prepared in the same manner
14 as a certification of adoption is delivered and the birth
15 certificate was originally prepared.

16 Sec. 10. Section 600.16, subsection 1, unnumbered paragraph
17 1, Code 2017, is amended to read as follows:

18 Any information compiled under [section 600.8, subsection 1,](#)
19 paragraph "c", relating to medical and developmental histories
20 shall be made available at any time by the clerk of court, the
21 department, or any ~~agency which~~ adoption service provider that
22 made the placement to:

23 Sec. 11. Section 600.16A, subsection 2, paragraph a, Code
24 2017, is amended to read as follows:

25 ~~a. An agency~~ The department or an adoption service provider
26 involved in placement shall contact the adopting parents or the
27 adult adopted child regarding eligibility of the adopted child
28 for benefits based on entitlement of benefits or inheritance
29 from the terminated biological parents.

30 Sec. 12. Section 600.16A, subsection 3, paragraph a,
31 unnumbered paragraph 1, Code 2017, is amended to read as
32 follows:

33 In addition to other procedures by which adoption records
34 may be opened under [this section](#), if both of the following
35 conditions are met, the department, the clerk of court, or the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 ~~agency which~~ adoption service provider that made the placement
2 shall open the adoption record for inspection and shall reveal
3 the identity of the biological parents to the adult adopted
4 child or the identity of the adult adopted child to the
5 biological parents:

6 Sec. 13. Section 600.16A, subsection 3, paragraph c, Code
7 2017, is amended to read as follows:

8 c. Notwithstanding the provisions of this subsection, if
9 the adult adopted person has a sibling who is a minor and who
10 has also been adopted by the same parents, the department, the
11 clerk of court, or the ~~agency which~~ adoption service provider
12 that made the placement may deny the request of either the
13 adult adopted person or the biological parent to open the
14 adoption records and to reveal the identities of the parties
15 pending determination by the juvenile court or court that there
16 is good cause to open the records pursuant to subsection 2.

17 Sec. 14. Section 600.20, Code 2017, is amended to read as
18 follows:

19 **600.20 Availability of assistance.**

20 Financial assistance shall be available only if the child
21 to be adopted was under the guardianship of the state, county,
22 or a ~~licensed child-placing~~ an agency immediately prior to
23 adoption. The one-hundred-eighty-day period of residence in
24 the proposed home required in section 600.10 shall not apply to
25 this section.

26 Sec. 15. Section 600A.2, Code 2017, is amended by adding the
27 following new subsections:

28 NEW SUBSECTION. 01. "*Adoption service provider*" means an
29 agency or a licensed attorney.

30 NEW SUBSECTION. 3A. "*Certified adoption investigator*"
31 means a person who is certified and approved by the department
32 of human services, after inspection by the department of
33 inspections and appeals, as being capable of conducting an
34 investigation under section 600.8.

35 Sec. 16. Section 600A.2, subsection 2, Code 2017, is amended

LSB 1731XC (7) 87

-8-

pf/nh

8/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 to read as follows:

2 2. "Agency" means a child-placing agency as defined in
3 section 238.1 ~~or the department.~~

4 Sec. 17. Section 600A.2, subsection 10, Code 2017, is
5 amended by striking the subsection.

6 Sec. 18. Section 600A.4, subsection 1, Code 2017, is amended
7 to read as follows:

8 1. A parent shall not permanently alter the parent-child
9 relationship, except as ordered by a juvenile court or
10 court. However, custody of a minor child may be assumed by a
11 stepparent or a relative of that child within the fourth degree
12 of consanguinity or transferred by an acceptance of a release
13 of custody. A person who assumes custody or an agency adoption
14 service provider which accepts a release of custody under this
15 section becomes, upon assumption or acceptance, the custodian
16 of the minor child.

17 Sec. 19. Section 600A.4, subsection 2, paragraphs a and d,
18 Code 2017, are amended to read as follows:

19 a. Shall be accepted only by an ~~agency or a person making an~~
20 ~~independent placement~~ adoption service provider.

21 d. (1) Shall contain written acknowledgment of the
22 biological parents that after the birth of the child three
23 hours of counseling regarding the decision to release
24 custody and the alternatives available have been offered
25 to the biological parents by the ~~agency, the person making~~
26 ~~an independent placement, an investigator as defined in~~
27 ~~section 600.2, or other qualified counselor regarding the~~
28 ~~decision to release custody and the alternatives available~~
29 ~~to the biological parents~~ department or an adoption service
30 provider. The release of custody shall also contain written
31 acknowledgment of the acceptance or refusal of the counseling
32 by the biological parent.

33 (2) If accepted, the counseling shall be provided after
34 the birth of the child and prior to the signing of a release
35 of custody or the filing of a petition for termination of

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 parental rights as applicable. Counseling shall be provided
2 only by a person who is qualified under rules adopted by the
3 department of human services which shall include a requirement
4 that the person complete a minimum number of hours of training
5 in the area of adoption-related counseling approved by the
6 department. If counseling is accepted, the counselor shall
7 provide an affidavit, which shall be attached to the release of
8 custody, when practicable, certifying that the counselor has
9 provided the biological parent with the requested counseling
10 and documentation that the person is qualified to provide the
11 requested counseling as prescribed by this paragraph "d". The
12 requirements of this paragraph "d" do not apply to a release
13 of custody which is executed for the purposes of a stepparent
14 adoption.

15 Sec. 20. Section 600A.4, subsection 2, paragraph f,
16 subparagraphs (1) and (4), Code 2017, are amended to read as
17 follows:

18 (1) A biological parent may also provide ongoing
19 information to the adoptive parents, as additional medical
20 or social history information becomes known, by providing
21 information to the clerk of court, the department of ~~human~~
22 ~~services~~, or the ~~agency which~~ adoption service provider that
23 made the placement, and may provide the current address of
24 the biological parent. The clerk of court, the department of ~~of~~
25 ~~human services~~, or the ~~agency which~~ adoption service provider
26 that made the placement shall transmit the information to the
27 adoptive parents if the address of the adoptive parents is
28 known.

29 (4) The department shall prescribe forms designed to obtain
30 the family medical and social history and shall provide the
31 forms at no charge to any ~~agency~~ adoption service provider or
32 person who executes a release of custody of the minor child or
33 who files a petition for termination of parental rights. The
34 existence of this report does not limit a person's ability to
35 petition the court for release of records in accordance with

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 other provisions of law.

2 Sec. 21. Section 600A.4, subsection 3, Code 2017, is amended
3 to read as follows:

4 3. Notwithstanding the provisions of subsection 2, the
5 department or an agency or a person making an independent
6 placement adoption service provider may assume custody of a
7 minor child upon the signature of the one living parent who has
8 possession of the minor child if the agency or a person making
9 an independent placement department or an adoption service
10 provider immediately petitions the juvenile court designated
11 in section 600A.5 to be appointed custodian and otherwise
12 petitions, either in the same petition or within a reasonable
13 time in a separate petition, for termination of parental rights
14 under section 600A.5. Upon the custody petition, the juvenile
15 court may appoint a guardian as well as a custodian.

16 Sec. 22. NEW SECTION. 600A.6C Report of expenditures —
17 penalty.

18 1. *a.* A biological parent shall not receive any thing of
19 value as a result of the biological parent terminating the
20 parent's parental rights, unless that thing of value is an
21 allowable expense under subsection 2.

22 *b.* Any person assisting in any way with the termination
23 of parental rights shall not charge a fee which is more than
24 usual, necessary, and commensurate with the services rendered.

25 *c.* If the biological parent receives any prohibited thing
26 of value, if a person gives a prohibited thing of value, or if
27 a person charges a prohibited fee under this subsection, the
28 person is guilty of a serious misdemeanor.

29 2. *a.* The petitioner shall file with the juvenile court
30 or court, prior to the termination hearing, a full accounting
31 of all disbursements of any thing of value paid or agreed
32 to be paid by or on behalf of the petitioner or intended
33 adoptive parent in connection with the petitioned termination.
34 This accounting shall be made by a report prescribed by the
35 juvenile court or court and shall be signed and verified by the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 petitioner. The report shall be accompanied by documentation
2 of all disbursements made prior to the date of filing of
3 the report. Only expenses incurred in connection with the
4 following and any other expenses approved by the juvenile court
5 or court are allowable:

6 (1) The birth of the minor person to be adopted.

7 (2) Placement of the minor person by the adoption service
8 provider.

9 (3) Legal expenses related to the termination of parental
10 rights and adoption processes.

11 (4) Pregnancy-related medical care received by the
12 biological parents or the minor person during the pregnancy
13 or delivery of the minor person and for medically necessary
14 postpartum care for the biological parent and the minor person.

15 (5) Ordinary and necessary living expenses of the mother
16 including but not limited to the costs of housing, food,
17 utilities, and transportation for medical purposes related
18 to the pregnancy and birth of the child, in an amount not to
19 exceed two thousand dollars and for no longer than thirty days
20 after the birth of the minor person.

21 (6) Costs of the counseling provided to the biological
22 parents prior to the birth of the child, prior to the release
23 of custody, and any counseling provided to the biological
24 parents for not more than sixty days after the birth of the
25 child.

26 (7) Living expenses or care of the minor person during the
27 pendency of the termination of parental rights proceedings.

28 *b.* All payments for allowable expenses shall be made through
29 the adoption service provider. An adoption service provider
30 shall deposit all funds received from prospective adoptive
31 parents as payments for allowable expenses for a designated
32 biological parent into an escrow account established with a
33 financial institution located in this state whose accounts
34 are insured by the federal deposit insurance corporation, the
35 national credit union administration, or the federal savings

LSB 1731XC (7) 87

-12-

pf/nh

12/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 and loan insurance corporation. Such escrow funds shall not
2 be commingled with other revenues or expense accounts of the
3 adoption service provider and separate accounting shall be
4 maintained for each prospective adoptive parent whose funds
5 are deposited in the escrow account. Any escrow funds not
6 disbursed by the adoption service provider for the benefit
7 of the designated biological parent shall be returned to the
8 prospective adoptive parents with a full accounting of all
9 deposits and disbursements. If the adoption service provider
10 is a licensed attorney, use of the attorney's state-sanctioned
11 trust account shall satisfy the requirements relative to the
12 escrow account under this paragraph.

13 c. Any payments for allowable expenses shall not be made to
14 a biological parent, but instead shall be made directly to the
15 provider of the service, product, or other activity to which
16 the allowable expense is attributable, if applicable.

17 d. The provisions of this subsection do not apply in a
18 stepparent adoption.

19 3. The juvenile court or court shall review the report prior
20 to the termination hearing and shall include findings regarding
21 the allowance or disallowance of any disbursements or projected
22 disbursements in the termination order.

23 Sec. 23. Section 600A.10, Code 2017, is amended to read as
24 follows:

25 **600A.10 Termination procedures — prohibited practices —**
26 **penalty for violation.**

27 1. Any biological parent who chooses to identify the
28 other biological parent and who knowingly and intentionally
29 identifies a person who is not the other biological parent in
30 the written release of custody or in any other document related
31 to the termination of parental rights proceedings is guilty of
32 a ~~simple~~ serious misdemeanor.

33 2. Any person who signs or accepts a release of custody
34 under section 600A.4 prior to the expiration of the
35 seventy-two-hour period required is guilty of a serious

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 misdemeanor.

2 3. a. All of the following are prohibited practices
3 regarding a proceeding under this chapter:

4 (1) The provision of termination of parental rights, child
5 placement, or adoption services to any biological or adoptive
6 parent by any person other than an adoption service provider
7 or the department.

8 (2) The charging of a fee by an adoption service provider
9 that is more than the usual and necessary fee commensurate with
10 the services rendered.

11 (3) The facilitation, encouragement, or advisement of
12 adoptive parents by an adoption service provider to provide any
13 thing of value beyond those expenditures allowed pursuant to
14 section 600A.6C.

15 (4) The knowing encouragement or solicitation of payment
16 of allowable expenses or provision of anything of value beyond
17 those expenditures allowed pursuant to section 600A.6C, by a
18 person falsely representing that a child may be available for
19 adoption with the intent to defraud the other person.

20 b. A person who commits a prohibited practice under this
21 subsection is guilty of a serious misdemeanor for the first
22 violation and a class "C" felony for any second or subsequent
23 violation.

24 Sec. 24. Section 714.8, Code 2017, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 21. Knowingly, by deception and with intent
27 to defraud another person, represents that the child expected
28 as the result of that person's pregnancy or the pregnancy of
29 another person may be available for adoption.

30 Sec. 25. Section 714.11, subsection 1, paragraph b, Code
31 2017, is amended to read as follows:

32 b. A fraudulent practice as set forth in section 714.8,
33 subsections 2, 8, and 9, and 21.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

LSB 1731XC (7) 87

-14-

pf/nh

14/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 the explanation's substance by the members of the general assembly.

2 This bill relates to adoption and termination of parental
3 rights. The bill defines "adoption service provider" to
4 include a licensed child-placing agency or a licensed attorney.
5 The bill eliminates the definition of and the use of the term
6 "independent placement" relative to termination of parental
7 rights and adoption proceedings, thereby only allowing adoption
8 service providers and the department of human services (DHS) to
9 make placements of minor children for the purposes of adoption.
10 The bill also defines "certified adoption investigator", for
11 the purposes of termination of parental rights and adoption
12 proceedings, replacing the term "investigator" which did not
13 require certification or approval of such investigators by
14 the department of human services. The bill makes conforming
15 changes throughout the Code to reflect the new definitions,
16 including relative to allowable tax deductions from net income.

17 The bill clarifies that the one certified copy of the
18 adoption decree to the petitioner, and the one copy of any
19 adoption decree to DHS, an adoption service provider, and the
20 state registrar of vital statistics, currently required to be
21 provided by the clerk of the court, are to be provided at no
22 charge.

23 The bill requires reporting of expenditures and limitations
24 on payment of only allowable expenditures relating to
25 termination of parental rights similar to those requirements
26 currently in place for adoption. As with adoptions, the bill
27 prohibits a biological parent from receiving any thing of value
28 as a result of the biological parent terminating the parent's
29 parental rights, unless that thing of value is an allowable
30 expense as provided in the bill. Any person assisting in any
31 way with the termination of parental rights is prohibited
32 from charging a fee which is more than usual, necessary, and
33 commensurate with the services rendered. If the biological
34 parent receives any prohibited thing of value, if a person
35 gives a prohibited thing of value, or if a person charges a

LSB 1731XC (7) 87

-15-

pf/nh

15/18

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 prohibited fee, the person is guilty of a serious misdemeanor.

2 As with an adoption petitioner, the bill also requires a
3 termination of parental rights petitioner to file with the
4 juvenile court or court, prior to the termination hearing, a
5 full accounting of all disbursements of any thing of value
6 paid or agreed to be paid by or on behalf of the petitioner
7 or intended adoptive parent in connection with the petitioned
8 termination. The accounting is to be made by a report
9 prescribed by the juvenile court or court and signed and
10 verified by the petitioner. The report is required to be
11 accompanied by documentation of all disbursements made prior to
12 the date of filing of the report. The bill specifies allowable
13 expenses similar to those allowed relative to an adoption
14 proceeding.

15 Additionally, the bill provides that all payments for
16 allowable expenses shall be made through the adoption
17 service provider and that the adoption service provider shall
18 deposit all funds received into an escrow account. The bill
19 specifies that such escrow funds shall not be commingled with
20 other revenues or expense accounts of the adoption service
21 provider and separate accounting shall be maintained for each
22 prospective adoptive parent whose funds are deposited in the
23 escrow account. Any escrow funds not disbursed by the adoption
24 service provider for the benefit of the designated biological
25 parent shall be returned to the prospective adoptive parents
26 with a full accounting of all deposits and disbursements.
27 The bill provides that if the adoption service provider is a
28 licensed attorney, use of the attorney's state-sanctioned trust
29 account shall satisfy the requirement relative to the escrow
30 account.

31 As with similar provisions relating to payment of allowable
32 expenses under an adoption proceeding, any payments for
33 allowable expenses relative to a termination of parental rights
34 proceeding shall not be made to a biological parent, but
35 instead shall be made directly to the provider of the service,

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 product, or other activity to which the allowable expense
2 is attributable, if applicable. The provisions relating
3 to allowable expenditures and reporting do not apply in a
4 stepparent adoption.

5 The bill directs that, as in an adoption proceeding, the
6 juvenile court or court shall review the expenditure report
7 prior to the termination hearing and shall include findings
8 regarding the allowance or disallowance of any disbursements or
9 projected disbursements in the termination order.

10 The bill also includes provisions relating to prohibited
11 practices relating to termination procedures. The bill amends
12 and increases the penalty from a simple misdemeanor to a
13 serious misdemeanor for the existing prohibition against a
14 person who signs or accepts a release of custody prior to the
15 expiration of the required 72-hour period. The bill includes
16 prohibited practices, the violation of which is a serious
17 misdemeanor for a first offense and a class "C" felony for any
18 second or subsequent violation. The bill also includes similar
19 prohibited practices relative to an adoption proceeding.

20 A simple misdemeanor is punishable by confinement for
21 no more than 30 days or a fine of at least \$65 but not more
22 than \$625 or by both. A serious misdemeanor is punishable
23 by confinement for no more than one year and a fine of at
24 least \$315 but not more than \$1,875. A class "C" felony is
25 punishable by confinement for no more than 10 years and a fine
26 of at least \$1,000 but not more than \$10,000.

27 The bill also includes in the definition of a fraudulent
28 practice under Code section 714.8, a person, knowingly, by
29 deception and with intent to defraud another person, represents
30 that the child expected as the result of that person's
31 pregnancy or the pregnancy of another person may be available
32 for adoption. The bill also makes this fraudulent practice a
33 fraudulent practice in the third degree, which is an aggravated
34 misdemeanor. An aggravated misdemeanor is punishable by
35 confinement for no more than two years and a fine of at least

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 \$625 but not more than \$6,250.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1094 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to an action to quiet title of real property
2 and the doctrine of adverse possession.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1633XC (1) 87
md/sc/jh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. NEW SECTION. **649.9 Adverse possession action.**

2 1. In an action to quiet title based upon the doctrine
3 of adverse possession, a party claiming title shall prove by
4 a preponderance of the evidence that the adverse possessor
5 has been in hostile, actual, open, exclusive, and continuous
6 possession of the real property under either claim of right
7 or color of title for at least ten years and that the adverse
8 possessor has paid the property taxes assessed on the real
9 property for the period of possession.

10 2. For purposes of this section, "*claim of right*" means the
11 actual occupation, use, and improvement of the property by the
12 adverse possessor in such a manner as to put the titleholder of
13 the real property on notice as to the adverse possessor's claim
14 for possession of the real property.

15 Sec. 2. **APPLICABILITY.** This Act applies to actions to quiet
16 title based upon the doctrine of adverse possession commenced
17 on or after July 1, 2017.

18 **EXPLANATION**

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill relates to an action to quiet title of real
22 property and the doctrine of adverse possession.

23 The bill provides that in an action to quiet title based
24 upon the doctrine of adverse possession a party claiming title
25 shall prove by a preponderance of the evidence that the adverse
26 possessor has been in hostile, actual, open, exclusive, and
27 continuous possession of the real property under either claim
28 of right or color of title for at least 10 years and that the
29 adverse possessor has paid the property taxes assessed on the
30 real property for the period of possession. For purposes of
31 the bill, "*claim of right*" means the actual occupation, use,
32 and improvement of the property by the adverse possessor in
33 such a manner as to put the titleholder of the real property on
34 notice as to the adverse possessor's claim for possession of
35 the real property.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 The bill applies to actions to quiet title based upon the
2 doctrine of adverse possession commenced on or after July 1,
3 2017.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1095 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to disclosure of asbestos bankruptcy trust
2 claims in civil asbestos actions, asbestos and silica claims
3 prioritization, and successor corporation asbestos-related
4 liability, and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1990XC (7) 87
jh/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. NEW SECTION. **686A.1 Title.**

2 This chapter shall be known and may be cited as the "*Asbestos*
3 *Bankruptcy Trust Claims Transparency Act*".

4 Sec. 2. NEW SECTION. **686A.2 Definitions.**

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

7 1. "*Asbestos*" means chrysotile, amosite, crocidolite,
8 tremolite asbestos, anthophyllite asbestos, actinolite
9 asbestos, asbestiform winchite, asbestiform richterite,
10 asbestiform amphibole minerals, and any of these minerals that
11 have been chemically treated or altered, including all minerals
12 defined as asbestos in 29 C.F.R. pt. 1910, at the time the
13 asbestos action is filed.

14 2. "*Asbestos action*" means a claim for damages or other
15 civil or equitable relief presented in a civil action arising
16 out of, based on, or related to the health effects of exposure
17 to asbestos, including loss of consortium, wrongful death,
18 mental or emotional injury, risk or fear of disease or other
19 injury, costs of medical monitoring or surveillance, and any
20 other derivative claim made by or on behalf of a person exposed
21 to asbestos or a representative, spouse, parent, child, or
22 other relative of that person.

23 3. "*Asbestos trust*" means a government-approved or
24 court-approved trust, qualified settlement fund, compensation
25 fund, or claims facility created as a result of an
26 administrative or legal action, a court-approved bankruptcy,
27 or pursuant to 11 U.S.C. §524(g) or 11 U.S.C. §1121(a) or
28 other applicable provision of law, that is intended to provide
29 compensation to claimants arising out of, based on, or related
30 to the health effects of exposure to asbestos.

31 4. "*Plaintiff*" means the person bringing an asbestos action,
32 including a personal representative if the asbestos action is
33 brought by an estate, or a conservator or next friend if the
34 asbestos action is brought on behalf of a minor or legally
35 incapacitated individual.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 5. *“Trust claims materials”* means a final executed proof
2 of claim and all other documents and information related to a
3 claim against an asbestos trust, including claims forms and
4 supplementary materials, affidavits, depositions and trial
5 testimony, work history, and medical and health records,
6 documents reflecting the status of a claim against an asbestos
7 trust, and if the trust claim has settled, all documents
8 relating to the settlement of the trust claim.

9 6. *“Trust governance documents”* means all documents that
10 relate to eligibility and payment levels, including claims
11 payment matrices, trust distribution procedures, or plans for
12 reorganization, for an asbestos trust.

13 Sec. 3. NEW SECTION. **686A.3 Required disclosures by**
14 **plaintiff.**

15 1. Within thirty days after an asbestos action is filed,
16 or within thirty days after the effective date of this
17 Act, whichever is later, the plaintiff shall do all of the
18 following:

19 a. Provide the court and parties with a sworn statement
20 signed by the plaintiff and the plaintiff’s counsel, under
21 penalty of perjury, indicating that an investigation of all
22 asbestos trust claims has been conducted and that all asbestos
23 trust claims that may be made by the plaintiff or any person on
24 the plaintiff’s behalf have been filed. The sworn statement
25 must indicate whether there has been a request to defer, delay,
26 suspend, or toll any asbestos trust claim, and provide the
27 disposition of each asbestos trust claim.

28 b. Provide all parties with all trust claims materials,
29 including trust claims materials that relate to conditions
30 other than those that are the basis for the asbestos action
31 and including all trust claims materials from all attorneys
32 connected to the plaintiff in relation to exposure to asbestos,
33 including any attorney involved in the asbestos action, any
34 referring attorney, and any other attorney who has filed an
35 asbestos trust claim for the plaintiff or on the plaintiff’s

LSB 1990XC (7) 87

-2-

jh/nh

2/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 behalf.

2 *c.* If the plaintiff's asbestos trust claim is based on
3 exposure to asbestos through another individual, the plaintiff
4 shall produce all trust claims materials submitted by the
5 other individual to any asbestos trusts if the materials are
6 available to the plaintiff or the plaintiff's counsel.

7 2. The plaintiff shall supplement the information and
8 materials required under subsection 1 within thirty days after
9 the plaintiff or a person on the plaintiff's behalf supplements
10 an existing asbestos trust claim, receives additional
11 information or materials related to an asbestos trust claim, or
12 files an additional asbestos trust claim.

13 3. The court may dismiss the asbestos action if the
14 plaintiff fails to comply with this section.

15 4. An asbestos action shall not be set for trial until
16 at least one hundred eighty days after the requirements of
17 subsection 1 are met.

18 Sec. 4. NEW SECTION. **686A.4 Identification of additional or**
19 **alternative asbestos trusts by defendant.**

20 1. A defendant may file a motion requesting a stay of
21 the proceedings on or before the later of the sixtieth day
22 before the date trial in the action is set to commence or the
23 fifteenth day after the defendant first obtains information
24 that could support additional trust claims by the plaintiff.
25 The motion shall identify the asbestos trust claims the
26 defendant believes the plaintiff can file and include
27 information supporting the asbestos trust claims.

28 2. Within ten days of receiving the defendant's motion, the
29 plaintiff shall do one of the following:

30 *a.* File the asbestos trust claims.

31 *b.* File a written response with the court stating the reason
32 there is insufficient evidence for the plaintiff to file the
33 asbestos trust claims.

34 *c.* File a written response with the court requesting a
35 determination that the cost to file the asbestos trust claims

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 exceeds the plaintiff's reasonably anticipated recovery.

2 3. a. If the court determines that there is a sufficient
3 basis for the plaintiff to file an asbestos trust claim
4 identified in the motion to stay, the court shall stay the
5 asbestos action until the plaintiff files the asbestos trust
6 claim and produces all related trust claims materials.

7 b. If the court determines that the cost of submitting
8 an asbestos trust claim exceeds the plaintiff's reasonably
9 anticipated recovery, the court shall stay the asbestos action
10 until the plaintiff files with the court and provides all
11 parties with a verified statement of the plaintiff's history
12 of exposure, usage, or other connection to asbestos covered by
13 that asbestos trust.

14 4. An asbestos action shall not be set for trial until at
15 least sixty days after the plaintiff provides the documentation
16 required by this section.

17 Sec. 5. NEW SECTION. 686A.5 Discovery — use of materials.

18 1. Trust claims materials and trust governance documents
19 are presumed to be relevant and authentic, and are admissible
20 in evidence in an asbestos action. Notwithstanding any other
21 provision of law to the contrary, a claim of privilege does
22 not apply to any trust claims materials or trust governance
23 documents.

24 2. A defendant in an asbestos action may seek discovery
25 from an asbestos trust. Notwithstanding any other provision
26 of law to the contrary, the plaintiff may not claim privilege
27 or confidentiality to bar discovery and shall provide consent
28 or other expression of permission that may be required by the
29 asbestos trust to release information and materials sought by a
30 defendant.

31 3. Trust claim materials that are sufficient to entitle
32 a claim to consideration for payment under the applicable
33 trust governance documents may be sufficient to support a jury
34 finding that the plaintiff may have been exposed to products
35 for which the trust was established to provide compensation and

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 that, under applicable law, such exposure may be a substantial
2 contributing factor in causing the plaintiff's injury that is
3 at issue in the asbestos action.

4 Sec. 6. NEW SECTION. **686A.6 Trust record — valuation of**
5 **asbestos trust claims — judicial notice.**

6 1. Not less than thirty days before trial in an asbestos
7 action, the court shall enter into the record a document that
8 identifies every asbestos trust claim made by the plaintiff or
9 on the plaintiff's behalf.

10 2. If a plaintiff proceeds to trial in an asbestos
11 action before an asbestos trust claim is resolved, there is
12 a rebuttable presumption that the plaintiff is entitled to,
13 and will receive, the compensation specified in the trust
14 governance document applicable to the plaintiff's claim at the
15 time of trial. The court shall take judicial notice that the
16 trust governance document specifies compensation amounts and
17 payment percentages and shall establish an attributed value to
18 the plaintiff's asbestos trust claims.

19 Sec. 7. NEW SECTION. **686A.7 Setoff — credit.**

20 In any asbestos action in which damages are awarded and
21 setoffs are permitted under applicable law, a defendant is
22 entitled to a setoff or credit in the amount the plaintiff
23 has been awarded from an asbestos trust identified in
24 section 686A.6, subsection 1, and the amount of the valuation
25 established under section 686A.6, subsection 2. If multiple
26 defendants are found liable for damages, the court shall
27 distribute the amount of setoff or credit proportionally
28 between the defendants, according to the liability of each
29 defendant.

30 Sec. 8. NEW SECTION. **686A.8 Failure to provide information**
31 **— sanctions.**

32 1. On the motion of a defendant or judgment debtor seeking
33 sanctions or other relief in an asbestos action, the court
34 may impose any sanction provided by court rule or a law of
35 this state, including but not limited to vacating a judgment

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 rendered in the action, for a plaintiff's failure to comply
2 with the disclosure requirements of this chapter.

3 2. If the plaintiff or a person on the plaintiff's behalf
4 files an asbestos trust claim after the plaintiff obtains a
5 judgment in an asbestos action, and that asbestos trust was
6 in existence at the time the plaintiff obtained the judgment,
7 the trial court, on motion by a defendant or judgment debtor
8 seeking sanctions or other relief, has jurisdiction to reopen
9 the judgment in the asbestos action and adjust the judgment by
10 the amount of any subsequent asbestos trust payments obtained
11 by the plaintiff and order any other relief to the parties that
12 the court considers just and proper.

13 3. A defendant or judgment debtor shall file any motion
14 under this section within a reasonable time and not more than
15 one year after the judgment was entered.

16 Sec. 9. NEW SECTION. **686A.9 Application.**

17 1. This chapter applies to all asbestos actions filed on or
18 after the effective date of this Act.

19 2. This chapter applies to all pending asbestos actions in
20 which trial has not commenced as of the effective date of this
21 Act unless the court finds that the application of a provision
22 in this chapter would unconstitutionally affect a vested right.
23 In that case, the provision does not apply and the court shall
24 apply prior law.

25 Sec. 10. NEW SECTION. **686B.1 Title.**

26 This chapter shall be known and may be cited as the "*Asbestos*
27 *and Silica Claims Priorities Act*".

28 Sec. 11. NEW SECTION. **686B.2 Definitions.**

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

31 1. "*AMA guides*" means the American medical association's
32 guides to the evaluation of permanent impairment in effect at
33 the time of the performance of any examination or test on the
34 exposed person required under this chapter.

35 2. "*Asbestos*" means the same as defined in section 686A.2.

LSB 1990XC (7) 87

-6-

jh/nh

6/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 3. *"Asbestos action"* means the same as defined in section
2 686A.2.

3 4. *"Asbestosis"* means bilateral diffuse interstitial
4 fibrosis of the lungs caused by inhalation of asbestos fibers.

5 5. *"Board-certified in internal medicine"* means certified
6 by the American board of internal medicine or the American
7 osteopathic board of internal medicine at the time of the
8 performance of an examination and rendition of a report
9 required by this chapter.

10 6. *"Board-certified in occupational medicine"* means
11 certified in the specialty of occupational medicine by the
12 American board of preventive medicine or the specialty of
13 occupational/environmental medicine by the American osteopathic
14 board of preventive medicine at the time of the performance
15 of an examination and rendition of a report required by this
16 chapter.

17 7. *"Board-certified in pathology"* means holding primary
18 certification in anatomic pathology or clinical pathology from
19 the American board of pathology or the American osteopathic
20 board of pathology at the time of the performance of an
21 examination and rendition of a report required by this chapter,
22 and practicing principally in the field of pathology including
23 regular evaluation of pathology materials obtained from
24 surgical or postmortem specimens.

25 8. *"Board-certified in pulmonary medicine"* means certified in
26 the specialty of pulmonary medicine by the American board of
27 internal medicine or the American osteopathic board of internal
28 medicine at the time of the performance of an examination and
29 rendition of a report required by this chapter.

30 9. *"Certified B-reader"* means an individual who has
31 qualified as a national institute for occupational safety and
32 health final or B-reader of X rays under 42 C.F.R. §37.51(b),
33 whose certification was current at the time of any readings
34 required under this chapter, and whose B-reads comply with
35 the national institute for occupational safety and health

LSB 1990XC (7) 87

-7-

jh/nh

7/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 B-reader's code of ethics, issues in classification of chest
2 radiographs, and classification of chest radiographs in
3 contested proceedings.

4 10. "*Exposed person*" means a person whose exposure to
5 asbestos or silica or to asbestos-containing products or
6 silica-containing products is the basis for an asbestos action
7 or silica action.

8 11. "*FEV1*" means forced expiratory volume in the first
9 second, which is the maximal volume of air expelled in one
10 second during the performance of simple spirometric tests.

11 12. "*FEV1/FVC*" means the ratio between the actual values for
12 FEV1 over FVC.

13 13. "*FVC*" means forced vital capacity, which is the maximal
14 volume of air expired with maximum effort from a position of
15 full inspiration.

16 14. "*ILO system*" and "*ILO scale*" mean the radiological
17 ratings and system for the classification of chest X rays of
18 the international labour office provided in guidelines for
19 the use of ILO international classification of radiographs of
20 pneumoconioses in effect on the day any X rays of the exposed
21 person were reviewed by a certified B-reader.

22 15. "*Nonmalignant condition*" means any condition that can be
23 caused by asbestos or silica other than a diagnosed cancer.

24 16. "*Official statements of the American thoracic society*"
25 means lung function testing standards set forth in statements
26 from the American thoracic society, including standardizations
27 of spirometry, standardizations of lung volume testing,
28 standardizations of diffusion capacity testing or single-breath
29 determination of carbon monoxide uptake in the lung, and
30 interpretive strategies for lung function tests, which are in
31 effect on the day of the pulmonary function testing of the
32 exposed person.

33 17. "*Pathological evidence of asbestosis*" means a statement
34 by a physician who is board-certified in pathology that more
35 than one representative section of lung tissue uninvolved

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 with any other disease process demonstrates a pattern of
2 peribronchiolar or parenchymal scarring in the presence of
3 characteristic asbestos bodies graded 1(B) or higher under the
4 criteria published in asbestos-associated diseases, 106 Archive
5 of Pathology and Laboratory Medicine 11, appendix 3 (October
6 8, 1982), or grade one or higher in pathology of asbestosis,
7 134 Archive of Pathology and Laboratory Medicine 462-80 (March
8 2010) (tables 2 and 3), as amended at the time of the exam, and
9 there is no other more likely explanation for the presence of
10 the fibrosis.

11 18. *“Pathological evidence of silicosis”* means a statement by
12 a physician who is board-certified in pathology that more than
13 one representative section of lung tissue uninvolved with any
14 other disease process demonstrates complicated silicosis with
15 characteristic confluent silicotic nodules or lesions equal
16 to or greater than one centimeter and birefringent crystals
17 or other demonstration of crystal structures consistent with
18 silica, well-organized concentric whorls of collagen surrounded
19 by inflammatory cells, in the lung parenchyma and no other
20 more likely explanation for the presence of the fibrosis
21 exists, or acute silicosis with characteristic pulmonary edema,
22 interstitial inflammation, and the accumulation within the
23 alveoli of proteinaceous fluid rich in surfactant.

24 19. *“Plaintiff”* means the person bringing an asbestos action
25 or silica action, including a personal representative if the
26 asbestos action or silica action is brought by an estate, or
27 a conservator or next friend if the asbestos action or silica
28 action is brought on behalf of a minor or legally incapacitated
29 individual.

30 20. *“Predicted lower limit of normal”* means the test
31 value that is the calculated standard convention lying at
32 the fifth percentile, below the upper ninety-five percent of
33 the reference population, based on age, height, and gender,
34 according to the recommendations by the American thoracic
35 society and as referenced in the applicable AMA guides,

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 primarily national health and nutrition examination survey

2 predicted values, or as amended.

3 21. *"Pulmonary function test"* means spirometry, lung volume
4 testing, and diffusion capacity testing, including appropriate
5 measurements, quality control data, and graphs, performed in
6 accordance with the methods of calibration and techniques
7 provided in the applicable AMA guides and all standards
8 provided in the official statements of the American thoracic
9 society in effect on the day pulmonary function testing of the
10 exposed person was conducted.

11 22. *"Qualified physician"* means a physician who is
12 board-certified in internal medicine, board-certified
13 in pathology, board-certified in pulmonary medicine, or
14 board-certified in occupational medicine, as may be appropriate
15 to the actual diagnostic specialty in question, and for whom
16 all of the following are true:

17 a. The physician conducted a physical examination of
18 the exposed person and has taken a detailed occupational,
19 exposure, medical, smoking, and social history from the exposed
20 person, or if the exposed person is deceased, has reviewed the
21 pathology material and has taken a detailed history from the
22 person most knowledgeable about the information forming the
23 basis of the asbestos action or silica action.

24 b. The physician treated or is treating the exposed person,
25 and has or had a doctor-patient relationship with the exposed
26 person at the time of the physical examination, or in the case
27 of a physician who is board-certified in pathology, examined
28 tissue samples or pathological slides of the exposed person at
29 the request of the treating physician.

30 c. The physician spends no more than twenty-five percent of
31 the physician's professional practice time providing consulting
32 or expert services in actual or potential civil actions, and
33 whose medical group, professional corporation, clinic, or other
34 affiliated group earns not more than twenty-five percent of its
35 revenue providing such services.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 *d.* The physician was licensed to practice on the date any
2 examination or pulmonary function testing was conducted, and
3 actively practices or practiced in the state where the exposed
4 person resides or resided at the time of the examination or
5 pulmonary function testing, or the state where the asbestos
6 action or silica action was filed.

7 *e.* The physician received or is receiving payment for the
8 treatment of the exposed person from the exposed person, a
9 member of the exposed person's family, or the exposed person's
10 health care plan and not from the exposed person's attorney.

11 *f.* The physician prepared or directly supervised the
12 preparation and final review of any medical report under this
13 chapter.

14 *g.* The physician has not relied on any examinations, tests,
15 radiographs, reports, or opinions of any physician, clinic,
16 laboratory, or testing company that performed an examination,
17 test, radiograph, or screening of the exposed person in
18 violation of any law, regulation, licensing requirement, or
19 medical code of practice of the state in which the examination,
20 test, or screening was conducted, or that was conducted without
21 establishing a physician-patient relationship with the exposed
22 person or medical personnel involved in the examination, test,
23 or screening process, or that required the exposed person to
24 agree to retain the service of an attorney.

25 23. "*Radiological evidence of asbestosis*" means a quality 1
26 chest X ray under the ILO system, or a quality 2 chest X ray
27 in a death case when no pathology or quality 1 chest X ray is
28 available, showing bilateral small, irregular opacities (s, t,
29 or u) occurring primarily in the lower lung zones graded by a
30 certified B-reader as at least 1/1 on the ILO scale.

31 24. "*Radiological evidence of diffuse bilateral pleural*
32 *thickening*" means a quality 1 chest X ray under the ILO system,
33 or a quality 2 chest X ray in a death case when no pathology or
34 quality 1 chest X ray is available, showing diffuse bilateral
35 pleural thickening of at least b2 on the ILO scale and blunting

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 of at least one costophrenic angle as classified by a certified
2 B-reader.

3 25. "*Radiological evidence of silicosis*" means a quality
4 1 chest X ray under the ILO system, or a quality 2 chest X
5 ray in a death case when no pathology or quality 1 chest X
6 ray is available, showing bilateral predominantly nodular
7 or rounded opacities (p, q, or r) occurring primarily in
8 the upper lung fields graded by a certified B-reader as at
9 least 1/1 on the ILO scale or A, B, or C sized opacities
10 representing complicated silicosis or acute silicosis with
11 characteristic pulmonary edema, interstitial inflammation, and
12 the accumulation within the alveoli of proteinaceous fluid rich
13 in surfactant.

14 26. "*Silica*" means a respirable crystalline form of silicon
15 dioxide, including quartz, cristobalite, and tridymite.

16 27. "*Silica action*" means a claim for damages or other civil
17 or equitable relief presented in a civil action arising out
18 of, based on, or related to the health effects of exposure to
19 silica, including loss of consortium, wrongful death, mental
20 or emotional injury, risk or fear of disease or other injury,
21 costs of medical monitoring or surveillance, and any other
22 derivative claim made by or on behalf of a person exposed to
23 silica or a representative, spouse, parent, child, or other
24 relative of that person.

25 28. "*Silicosis*" means simple silicosis, acute silicosis,
26 accelerated silicosis, or chronic silicosis caused by the
27 inhalation of respirable silica.

28 29. "*Supporting test results*" means copies of the B-reading;
29 pulmonary function tests, including printouts of the flow
30 volume loops, volume time curves, diffusing capacity of the
31 lung for carbon monoxide graphs, lung volume tests and graphs,
32 quality control data and other pertinent data for all trials
33 and all other elements required to demonstrate compliance with
34 the equipment, quality, interpretation, and reporting standards
35 set forth in this chapter; B-reader reports; reports of X

LSB 1990XC (7) 87

-12-

jh/nh

12/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 ray examinations; diagnostic imaging of the chest; pathology
2 reports; and all other tests reviewed by the diagnosing
3 physician or a qualified physician in reaching the physician's
4 conclusions.

5 Sec. 12. NEW SECTION. **686B.3 Filing claims — establishment**
6 **of prima facie case — individual actions to be filed.**

7 1. A plaintiff in an asbestos action involving a
8 nonmalignant condition or a silica action involving silicosis
9 shall file with the complaint or other initial pleading a
10 detailed narrative medical report and diagnosis, signed under
11 oath by a qualified physician and accompanied by supporting
12 test results, which constitute prima facie evidence that the
13 exposed person meets the requirements of this chapter. The
14 report shall not be prepared by an attorney or person working
15 for or on behalf of an attorney.

16 2. A plaintiff shall include with the detailed narrative
17 medical report a sworn information form containing all of the
18 following:

19 *a.* The name, address, date of birth, social security
20 number, marital status, occupation, and employer of the exposed
21 person, and any person through whom the exposed person alleges
22 exposure.

23 *b.* The plaintiff's relationship to the exposed person or
24 person through whom the exposure is alleged.

25 *c.* The specific location and manner of each alleged
26 exposure, including the specific location and manner of
27 exposure for any person through whom the exposed person alleges
28 exposure.

29 *d.* The beginning and ending dates of each alleged exposure.

30 *e.* The identity of the manufacturer of the specific asbestos
31 or silica product for each exposure.

32 *f.* The identity of the defendant or defendants against whom
33 the plaintiff asserts a claim.

34 *g.* The specific asbestos-related or silica-related disease
35 claimed to exist.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 *h.* Any supporting documentation relating to the information
2 required under this subsection.

3 3. For an asbestos action or silica action pending as of
4 the effective date of this Act, the detailed narrative medical
5 report and supporting test results and sworn information form
6 described in subsections 1 and 2 shall be provided to all
7 parties not later than ninety days after the effective date of
8 this Act or not later than ninety days before trial, whichever
9 is earlier.

10 4. A defendant shall be afforded a reasonable opportunity
11 to challenge the adequacy of the prima facie evidence before
12 trial.

13 5. The court shall dismiss the asbestos action or silica
14 action without prejudice on finding that the plaintiff has
15 failed to make the prima facie showing required by this chapter
16 or failed to comply with the requirements of this section.

17 6. An asbestos action or silica action must be individually
18 filed and shall not be filed on behalf of a group or class of
19 plaintiffs.

20 Sec. 13. NEW SECTION. **686B.4 Asbestos claims involving**
21 **nonmalignant conditions — elements of proof.**

22 An asbestos action involving a nonmalignant condition shall
23 not be brought or maintained in the absence of prima facie
24 evidence that the exposed person has a physical impairment for
25 which asbestos exposure was a substantial contributing factor.
26 The prima facie showing shall be made as to each defendant
27 and include a detailed narrative medical report and diagnosis
28 signed under oath by a qualified physician that includes all
29 of the following:

30 1. Radiological or pathological evidence of asbestosis or
31 radiological evidence of diffuse bilateral pleural thickening
32 or a high-resolution computed tomography scan showing evidence
33 of asbestosis or diffuse bilateral pleural thickening.

34 2. A detailed occupational and exposure history from
35 the exposed person or, if that person is deceased, from the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 person most knowledgeable about the exposures that form the
2 basis of the action, including identification of all of the
3 exposed person's principal places of employment and exposures
4 to airborne contaminants and whether each place of employment
5 involved exposures to airborne contaminants, including asbestos
6 fibers or other disease-causing dusts or fumes, that may cause
7 pulmonary impairment and the nature, duration, and level of any
8 exposure.

9 3. A detailed medical, social, and smoking history from the
10 exposed person or, if that person is deceased, from the person
11 most knowledgeable, including a thorough review of the past and
12 present medical problems of the exposed person and the most
13 probable cause of such medical problems.

14 4. Evidence verifying that at least fifteen years have
15 elapsed between the exposed person's date of first exposure to
16 asbestos and the date of diagnosis.

17 5. Evidence based upon a personal medical examination
18 and pulmonary function testing of the exposed person or,
19 if the exposed person is deceased, based upon the person's
20 medical records, that the exposed person has or the deceased
21 person had a permanent respiratory impairment rating of at
22 least class 2 as defined by and evaluated pursuant to the
23 AMA guides or reported significant changes year to year in
24 lung function for FVC, FEV1, or diffusing capacity of the
25 lung for carbon monoxide as defined by the American thoracic
26 society's interpretative strategies for lung function tests, 26
27 European Respiratory Journal 948-68, 961-62, table 12 (2005),
28 as updated.

29 6. Evidence that asbestosis or diffuse bilateral pleural
30 thickening, rather than chronic obstructive pulmonary disease,
31 is a substantial contributing factor to the exposed person's
32 physical impairment, based on a determination that the exposed
33 person has any of the following:

34 a. FVC below the predicted lower limit of normal and
35 FEV1/FVC ratio, using actual values, at or above the predicted

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 lower limit of normal.

2 *b.* Total lung capacity, by plethysmography or timed gas
3 dilution, below the predicted lower limit of normal.

4 *c.* A chest X ray showing bilateral small, irregular
5 opacities (s, t, or u) graded by a certified B-reader as at
6 least 2/1 on the ILO scale.

7 7. The qualified physician signing the detailed narrative
8 medical report has concluded that exposure to asbestos was
9 a substantial contributing factor to the exposed person's
10 physical impairment and not more probably the result of other
11 causes. An opinion that the medical findings and impairment
12 are consistent with or compatible with exposure to asbestos,
13 or similar opinion, does not satisfy the requirements of this
14 subsection.

15 **Sec. 14. NEW SECTION. 686B.5 Silica claims involving**
16 **silicosis — elements of proof.**

17 A silica action involving silicosis shall not be brought
18 or maintained in the absence of prima facie evidence that the
19 exposed person has a physical impairment for which exposure
20 to silica was a substantial contributing factor. The prima
21 facie showing shall be made as to each defendant and include
22 a detailed narrative medical report and diagnosis signed
23 under oath by a qualified physician that includes all of the
24 following:

25 1. Radiological or pathological evidence of silicosis or a
26 high-resolution computed tomography scan showing evidence of
27 silicosis.

28 2. A detailed occupational and exposure history from the
29 exposed person or, if that person is deceased, from the person
30 most knowledgeable about the exposures that form the basis of
31 the action, including identification of all principal places
32 of employment and exposures to airborne contaminants and
33 whether each place of employment involved exposures to airborne
34 contaminants, including silica or other disease-causing dusts
35 or fumes, that may cause pulmonary impairment and the nature,

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 duration, and level of any exposure.

2 3. A detailed medical, social, and smoking history from the
3 exposed person or, if that person is deceased, from the person
4 most knowledgeable, including a thorough review of the past and
5 present medical problems of the exposed person and the most
6 probable cause of such medical problems.

7 4. Evidence that a sufficient latency period has elapsed
8 between the exposed person's date of first exposure to silica
9 and the day of diagnosis.

10 5. Evidence based upon a personal medical examination
11 and pulmonary function testing of the exposed person or,
12 if the exposed person is deceased, based upon the person's
13 medical records, that the exposed person has or the deceased
14 person had a permanent respiratory impairment rating of at
15 least class 2 as defined by and evaluated pursuant to the
16 AMA guides or reported significant changes year to year in
17 lung function for FVC, FEV1, or diffusing capacity of the
18 lung for carbon monoxide as defined by the American thoracic
19 society's interpretative strategies for lung function tests, 26
20 European Respiratory Journal 948-68, 961-62, table 12 (2005),
21 as updated.

22 6. The qualified physician signing the detailed narrative
23 medical report has concluded that exposure to silica was
24 a substantial contributing factor to the exposed person's
25 physical impairment and not more probably the result of other
26 causes. An opinion stating that the medical findings and
27 impairment are consistent with or compatible with exposure to
28 silica, or similar opinion, does not satisfy the requirements
29 of this subsection.

30 Sec. 15. NEW SECTION. **686B.6 Evidence of physical**
31 **impairment.**

32 Evidence relating to physical impairment, including
33 pulmonary function testing and diffusing studies, offered in
34 an action governed by this chapter, must satisfy all of the
35 following requirements:

LSB 1990XC (7) 87

-17-

jh/nh

17/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 1. The evidence must comply with the quality controls,
2 equipment requirements, methods of calibration, and techniques
3 set forth in the AMA guides and all standards set forth in the
4 official statements of the American thoracic society which are
5 in effect on the date of any examination or pulmonary function
6 testing of the exposed person required by this chapter.

7 2. The evidence must not be obtained by or based on testing
8 or examinations that violate any law, regulation, licensing
9 requirement, or medical code of practice of the state in which
10 the examination, test, or screening was conducted, or of this
11 state.

12 3. The evidence must not be obtained under the condition
13 that the plaintiff or exposed person retains the legal services
14 of the attorney sponsoring the examination, test, or screening.

15 Sec. 16. NEW SECTION. **686B.7 Procedures — limitation.**

16 1. Evidence relating to the prima facie showings required
17 under this chapter shall not create any presumption that the
18 exposed person has an asbestos-related or silica-related injury
19 or impairment, and shall not be conclusive as to the liability
20 of any defendant.

21 2. No evidence shall be offered at trial, and the jury shall
22 not be informed, of any of the following:

23 *a.* The grant or denial of a motion to dismiss an asbestos
24 action or silica action under the provisions of this chapter.

25 *b.* The provisions of this chapter with respect to what
26 constitutes a prima facie showing of asbestos-related
27 impairment or silica-related impairment.

28 3. Until a court enters an order determining that the
29 exposed person has established prima facie evidence of
30 impairment, an asbestos action or silica action shall not be
31 subject to discovery, except discovery related to establishing
32 or challenging the prima facie evidence or by order of the
33 trial court upon motion of one of the parties and for good
34 cause shown.

35 4. *a.* A court may consolidate for trial any number and

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 type of asbestos actions or silica actions with the consent of
2 all the parties. In the absence of such consent, the court may
3 consolidate for trial only asbestos actions or silica actions
4 relating to the exposed person and members of that person's
5 household.

6 *b.* This subsection does not preclude the consolidation of
7 cases by court order for pretrial or discovery purposes.

8 5. A defendant in an asbestos action or silica action shall
9 not be liable for exposures from a product or component part
10 made or sold by a third party.

11 Sec. 17. NEW SECTION. **686B.8 Statute of limitations —**
12 **two-disease rule.**

13 1. With respect to an asbestos action or silica action not
14 barred by limitations as of the effective date of this Act, an
15 exposed person's cause of action shall not accrue, nor shall
16 the running of limitations commence, prior to the earliest of
17 the following:

18 *a.* The exposed person received a medical diagnosis of an
19 asbestos-related impairment or silica-related impairment.

20 *b.* The exposed person discovered facts that would have
21 led a reasonable person to obtain a medical diagnosis with
22 respect to the existence of an asbestos-related impairment or
23 silica-related impairment.

24 *c.* The date of death of the exposed person having an
25 asbestos-related impairment or silica-related impairment.

26 2. This section shall not be construed to revive or extend
27 limitations with respect to any claim for asbestos-related
28 impairment or silica-related impairment that was otherwise
29 time-barred as of the effective date of this Act.

30 3. An asbestos action or silica action arising out of a
31 nonmalignant condition shall be a distinct cause of action from
32 an action for an asbestos-related cancer or silica-related
33 cancer. Where otherwise permitted under state law, no damages
34 shall be awarded for fear or increased risk of future disease
35 in an asbestos action or silica action.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Sec. 18. NEW SECTION. **686B.9 Application.**

2 1. This chapter applies to all asbestos actions and silica
3 actions filed on or after the effective date of this Act.

4 2. This chapter applies to all pending asbestos actions
5 and silica actions in which trial has not commenced as
6 of the effective date of this Act unless the court finds
7 that the application of a provision in this chapter would
8 unconstitutionally affect a vested right. In that case, the
9 provision does not apply and the court shall apply prior law.

10 Sec. 19. NEW SECTION. **686C.1 Title.**

11 This chapter shall be known and may be cited as the
12 *"Successor Corporation Asbestos-Related Liability Fairness Act"*.

13 Sec. 20. NEW SECTION. **686C.2 Definitions.**

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

16 1. *"Asbestos action"* means the same as defined in section
17 686A.2, but also includes any claim for damage or loss caused
18 by the installation, presence, or removal of asbestos.

19 2. *"Corporation"* means any corporation established under
20 either domestic or foreign charter and includes a corporate
21 subsidiary and any business entity in which a corporation
22 participates or is a stockholder, a partner, or a joint
23 venture.

24 3. *"Successor"* means a corporation that assumes or incurs or
25 has assumed or incurred successor asbestos-related liabilities
26 through operation of law, including but not limited to a
27 merger or consolidation or plan of merger or consolidation
28 related to such consolidation or merger or by appointment as
29 an administrator or as a trustee in bankruptcy, debtor in
30 possession, liquidation, or receivership and that became a
31 successor before January 1, 1972. *"Successor"* includes any of
32 that successor corporation's successors.

33 4. *"Successor asbestos-related liability"* means any
34 liabilities, whether known or unknown, asserted or unasserted,
35 absolute or contingent, accrued or unaccrued, liquidated or

LSB 1990XC (7) 87

-20-

jh/nh

20/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 unliquidated, or due or to become due, which are related in
2 any way to an asbestos action and were assumed or incurred by
3 a corporation as a result of or in connection with a merger
4 or consolidation, or the plan of merger or consolidation
5 related to the merger or consolidation with or into another
6 corporation, or that are related in any way to an asbestos
7 action based on the exercise of control or the ownership of
8 stock of the corporation before the merger or consolidation.
9 *“Successor asbestos-related liability”* includes liabilities
10 that, after the time of the merger or consolidation for which
11 the fair market value of total gross assets is determined under
12 section 686C.4, were or are paid or otherwise discharged, or
13 committed to be paid or otherwise discharged, by or on behalf
14 of the corporation, or by a successor of the corporation, or by
15 or on behalf of a transferor, in connection with settlements,
16 judgments, or other discharges in this state or another
17 jurisdiction.

18 5. *“Transferor”* means a corporation from which successor
19 asbestos-related liabilities are or were assumed or incurred.

20 Sec. 21. **NEW SECTION. 686C.3 Limitations on successor**
21 **asbestos-related liabilities.**

22 1. Except as provided in subsection 2, the cumulative
23 successor asbestos-related liabilities of a successor are
24 limited to the fair market value of the total gross assets
25 of the transferor determined as of the time of the merger
26 or consolidation. A successor shall not have responsibility
27 for successor asbestos-related liabilities in excess of this
28 limitation.

29 2. If the transferor had assumed or incurred successor
30 asbestos-related liabilities in connection with a prior
31 merger or consolidation with a prior transferor, then the
32 fair market value of the total gross assets of the prior
33 transferor determined as of the time of the earlier merger or
34 consolidation shall be substituted for the limitation set forth
35 in subsection 1 for purposes of determining the limitation of

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 liability of a successor.

2 3. The limitations in this section shall apply to any
3 successor but shall not apply to any of the following:

4 a. Workers' compensation benefits paid by or on behalf of
5 an employer to an employee under the provisions of chapter 85
6 or 85A, or a comparable workers' compensation law of another
7 jurisdiction.

8 b. Any claim against a corporation that does not constitute
9 a successor asbestos-related liability.

10 c. Any obligation under the federal National Labor
11 Relations Act, 29 U.S.C. §151 et seq., as amended, or under any
12 collective bargaining agreement.

13 d. A successor that, after a merger or consolidation,
14 continued in the business of mining asbestos or in the
15 business of selling or distributing asbestos fibers or
16 in the business of manufacturing, distributing, removing,
17 or installing asbestos-containing products which were the
18 same or substantially the same as those products previously
19 manufactured, distributed, removed, or installed by the
20 transferor.

21 Sec. 22. NEW SECTION. **686C.4 Establishing fair market value**
22 **of total gross assets.**

23 1. A successor may establish the fair market value of
24 total gross assets, which include intangible assets, for the
25 purpose of the limitations under section 686C.3, through any
26 method reasonable under the circumstances, including any of the
27 following:

28 a. By reference to the going concern value of the assets or
29 to the purchase price attributable to or paid for the assets
30 in an arms-length transaction.

31 b. In the absence of other readily available information
32 from which the fair market value can be determined, by
33 reference to the value of the assets recorded on a balance
34 sheet.

35 2. To the extent total gross assets include any liability

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 insurance that was issued to the transferor whose assets are
2 being valued for purposes of this section, the applicability,
3 terms, conditions, and limits of such insurance shall not be
4 affected by this chapter, nor shall this chapter otherwise
5 affect the rights and obligations of an insurer, transferor,
6 or successor under any insurance contract or any related
7 agreement, including, without limitation, preenactment
8 settlements resolving coverage-related disputes, and the rights
9 of an insurer to seek payment for applicable deductibles,
10 retrospective premiums, or self-insured retentions or to seek
11 contribution from a successor for uninsured or self-insured
12 periods or periods where insurance is uncollectible or
13 otherwise unavailable. Without limiting the foregoing, to the
14 extent total gross assets include any such liability insurance,
15 a settlement of a dispute concerning any such liability
16 insurance coverage entered into by a transferor or successor
17 with the insurers of the transferor before the effective date
18 of this Act shall be determinative of the total coverage of
19 such liability insurance to be included in the calculation of
20 the transferor's total gross assets.

21 Sec. 23. NEW SECTION. **686C.5 Adjustment.**

22 1. Except as provided in subsections 2, 3, and 4, the fair
23 market value of total gross assets at the time of a merger or
24 consolidation shall increase annually at a rate equal to the
25 sum of the prime rate as listed in the first edition of the
26 Wall street journal published for each calendar year since the
27 merger or consolidation, unless the prime rate is not published
28 in that edition of the Wall street journal, in which case any
29 reasonable determination of the prime rate on the first day of
30 the year may be used, plus one percent.

31 2. The rate determined under subsection 1 shall not be
32 compounded.

33 3. The adjustment of the fair market value of total
34 gross assets shall continue as provided in subsection 1
35 until the date the adjusted value is first exceeded by the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 cumulative amounts of successor asbestos-related liabilities
2 paid or committed to be paid by or on behalf of the successor
3 corporation or a predecessor or by or on behalf of a transferor
4 after the time of the merger or consolidation for which the
5 fair market value of total gross assets is determined.

6 4. No adjustment of the fair market value of total gross
7 assets shall be applied to any liability insurance that may be
8 included in the total gross assets pursuant to section 686C.4,
9 subsection 2.

10 Sec. 24. NEW SECTION. 686C.6 Scope of chapter —
11 application.

12 1. This chapter shall be liberally construed with regard to
13 successors.

14 2. This chapter applies to all asbestos claims filed against
15 a successor on or after the effective date of this Act.

16 3. This chapter applies to all pending asbestos actions in
17 which trial has not commenced as of the effective date of this
18 Act unless the court finds that the application of a provision
19 in this chapter would unconstitutionally affect a vested right.
20 In that case, the provision does not apply and the court shall
21 apply prior law.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill relates to disclosure of asbestos bankruptcy trust
26 claims in civil asbestos actions, asbestos and silica claims
27 prioritization, and successor corporation asbestos-related
28 liability, and includes applicability provisions.

29 ASBESTOS BANKRUPTCY TRUST CLAIMS. The bill enacts new
30 Code chapter 686A, which requires a plaintiff in an asbestos
31 action to disclose documents and information related to claims
32 against an asbestos trust to a defendant within the later of 30
33 days of filing an asbestos action or 30 days of the effective
34 date of the bill. If the plaintiff fails to comply with these
35 requirements, the court may dismiss the action.

LSB 1990XC (7) 87

-24-

jh/nh

24/28

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 The bill provides that a defendant may file a motion
2 requesting a stay of the proceedings on or before the later
3 of the 60th day before the date trial in the action is set to
4 commence or the 15th day after the defendant first obtains
5 information that could support additional trust claims by the
6 plaintiff. The motion shall identify the asbestos trust claims
7 the defendant believes the plaintiff can file and include
8 information supporting the asbestos trust claims.

9 The bill provides that trust claims materials and trust
10 governance documents are presumed to be relevant and authentic,
11 and are admissible in evidence in an asbestos action. A claim
12 of privilege does not apply to any trust claims materials or
13 trust governance documents. The bill provides that trust
14 claim materials that are sufficient to entitle a claim to
15 consideration for payment under the applicable trust governance
16 documents may be sufficient to support a jury finding that
17 the plaintiff may have been exposed to products for which the
18 trust was established to provide compensation and that, under
19 applicable law, such exposure may be a substantial contributing
20 factor in causing the plaintiff's injury that is at issue in
21 the asbestos action.

22 If a plaintiff proceeds to trial in an asbestos action before
23 an asbestos trust claim is resolved, there is a rebuttable
24 presumption that the plaintiff is entitled to, and will
25 receive, the compensation specified in the trust governance
26 document applicable to the plaintiff's claim at the time of
27 trial.

28 In any asbestos action in which damages are awarded and
29 setoffs are permitted, a defendant is entitled to a setoff or
30 credit in the amount the plaintiff has been awarded from an
31 asbestos trust.

32 The bill provides that if the plaintiff or a person on
33 the plaintiff's behalf files an asbestos trust claim after
34 the plaintiff obtains a judgment in an asbestos action,
35 and that asbestos trust was in existence at the time the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 plaintiff obtained the judgment, the trial court, on motion
2 by a defendant or judgment debtor seeking sanctions or other
3 relief, has jurisdiction to reopen the judgment and adjust
4 the judgment by the amount of any subsequent asbestos trust
5 payments obtained by the plaintiff and order any other relief
6 to the parties that the court considers just and proper.

7 The bill applies to all asbestos actions filed on or after
8 the effective date of the bill, and to all pending asbestos
9 actions in which trial has not commenced as of the effective
10 date of the bill unless the court finds that the application
11 of a provision of the bill would unconstitutionally affect a
12 vested right. In that case, the provision does not apply and
13 the court shall apply prior law.

14 ASBESTOS AND SILICA CLAIMS PRIORITIZATION. The bill enacts
15 new Code chapter 686B, which provides that a plaintiff in an
16 asbestos action involving a nonmalignant condition or a silica
17 action involving silicosis shall file with the complaint or
18 other initial pleading a detailed narrative medical report
19 and diagnosis, signed under oath by a qualified physician and
20 accompanied by supporting test results, which constitute prima
21 facie evidence that the exposed person meets the requirements
22 of the bill. The report must not be prepared by an attorney.
23 For an asbestos or silica action pending as of the effective
24 date of the bill, the detailed narrative medical report and
25 supporting test results and sworn information shall be provided
26 to all parties not later than 90 days after the effective date
27 of the bill or not later than 90 days before trial, whichever
28 is earlier. The court shall dismiss the asbestos or silica
29 action without prejudice on finding that the plaintiff has
30 failed to make the prima facie showing required by the bill or
31 failed to comply with the requirements of the bill. The bill
32 provides that asbestos and silica actions must be individually
33 filed and may not be filed on behalf of a group or class of
34 plaintiffs.

35 The bill provides that an asbestos action involving a

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 nonmalignant condition or a silica action involving silicosis
2 shall not be brought or maintained in the absence of prima
3 facie evidence that the exposed person has a physical
4 impairment for which exposure to asbestos or silica was a
5 substantial contributing factor. The prima facie showing shall
6 be made as to each defendant and include a detailed narrative
7 medical report and diagnosis signed under oath by a qualified
8 physician that includes certain specified information. The
9 bill requires the qualified physician signing the detailed
10 narrative medical report to conclude that exposure to asbestos
11 or silica was a substantial contributing factor to the exposed
12 person's physical impairment and not more probably the result
13 of other causes. An opinion that the medical findings and
14 impairment are consistent with or compatible with exposure to
15 asbestos or silica does not satisfy the requirements of the
16 bill.

17 The bill provides that evidence relating to the prima
18 facie showings required under the bill shall not create any
19 presumption that the exposed person has an asbestos-related
20 or silica-related injury or impairment, and shall not be
21 conclusive as to the liability of any defendant. Until a
22 court enters an order determining that the exposed person has
23 established prima facie evidence of impairment, no asbestos or
24 silica action shall be subject to discovery, except discovery
25 related to establishing or challenging the prima facie evidence
26 or by order of the trial court upon motion of one of the parties
27 and for good cause shown.

28 An asbestos or silica action arising out of a nonmalignant
29 condition shall be a distinct cause of action from an action
30 for an asbestos-related or silica-related cancer.

31 The bill applies to all asbestos and silica actions
32 filed on or after the effective date of the bill, and to all
33 pending asbestos and silica actions in which trial has not
34 commenced as of the effective date of the bill unless the court
35 finds that the application of a provision in the bill would

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 unconstitutionally affect a vested right. In that case, the

2 provision does not apply and the court shall apply prior law.

3 SUCCESSOR CORPORATION ASBESTOS-RELATED LIABILITY. The

4 bill enacts new Code chapter 686C, which limits liability

5 related to asbestos actions which were assumed or incurred by a

6 corporation as the result of a merger or consolidation. The

7 bill provides that the cumulative successor asbestos-related

8 liabilities of a successor corporation are limited to the

9 fair market value of the total gross assets of the transferor

10 determined as of the time of the merger or consolidation.

11 The fair market value of the total gross assets may be

12 determined by any method reasonable under the circumstances,

13 including by reference to the going concern value of the assets

14 or to the purchase price attributable to or paid for the assets

15 in an arms-length transaction, or, in the absence of other

16 readily available information from which the fair market value

17 can be determined, by reference to the value of the assets

18 recorded on a balance sheet.

19 The bill provides that the fair market value of total gross

20 assets shall increase annually at a rate equal to the sum of

21 the prime rate plus 1 percent.

22 The bill is to be liberally construed with regard to

23 successor corporations.

24 The bill applies to all asbestos and silica actions

25 filed on or after the effective date of the bill, and to all

26 pending asbestos and silica actions in which trial has not

27 commenced as of the effective date of the bill unless the court

28 finds that the application of a provision in the bill would

29 unconstitutionally affect a vested right. In that case, the

30 provision does not apply and the court shall apply prior law.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1096 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to the revised uniform athlete agents Act and
2 providing remedies and penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1693XC (2) 87
av/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Section 1. Section 9A.101, Code 2017, is amended to read as
2 follows:

3 **9A.101 Title.**

4 This chapter ~~shall be known~~ may be cited as the *Uniform*
5 *Revised Uniform Athlete Agents Act* Act (2015).

6 Sec. 2. Section 9A.102, subsection 1, Code 2017, is amended
7 to read as follows:

8 1. *Agency contract* means an agreement ~~pursuant to~~ in which
9 a student athlete authorizes a person to negotiate or solicit
10 on behalf of the ~~student~~ athlete a professional sports services
11 contract or an endorsement contract.

12 Sec. 3. Section 9A.102, subsection 2, Code 2017, is amended
13 by striking the subsection and inserting in lieu thereof the
14 following:

15 2. a. *Athlete agent* means an individual, whether or not
16 registered under this chapter, who does any of the following:

17 (1) Directly or indirectly, recruits or solicits a student
18 athlete to enter into an agency contract or, for compensation,
19 procures employment or offers, promises, attempts, or
20 negotiates to obtain employment for a student athlete as a
21 professional athlete or member of a professional sports team or
22 organization.

23 (2) For compensation or in anticipation of compensation
24 related to a student athlete's participation in athletics does
25 either of the following:

26 (a) Serves the athlete in an advisory capacity on a
27 matter related to finances, business pursuits, or career
28 management decisions, unless the individual is an employee of
29 an educational institution acting exclusively as an employee of
30 the institution for the benefit of the institution.

31 (b) Manages the business affairs of the athlete by providing
32 assistance with bills, payments, contracts, or taxes.

33 (3) In anticipation of representing a student athlete for a
34 purpose related to the athlete's participation in athletics,
35 does any of the following:

LSB 1693XC (2) 87

-1-

av/nh

1/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 (a) Gives consideration to the student athlete or another
2 person.

3 (b) Serves the athlete in an advisory capacity on a matter
4 related to finances, business pursuits, or career management
5 decisions.

6 (c) Manages the business affairs of the athlete by providing
7 assistance with bills, payments, contracts, or taxes.

8 *b. "Athlete agent"* does not include an individual who does
9 either of the following:

10 (1) Acts solely on behalf of a professional sports team or
11 organization.

12 (2) Is a licensed, registered, or certified professional
13 and offers or provides services to a student athlete
14 customarily provided by members of the profession, unless the
15 individual does any of the following:

16 (a) Also recruits or solicits the athlete to enter into an
17 agency contract.

18 (b) Also, for compensation, procures employment or offers,
19 promises, attempts, or negotiates to obtain employment for the
20 athlete as a professional athlete or member of a professional
21 sports team or organization.

22 (c) Receives consideration for providing the services
23 calculated using a different method than for an individual who
24 is not a student athlete.

25 Sec. 4. Section 9A.102, subsection 3, Code 2017, is amended
26 to read as follows:

27 3. "*Athletic director*" means ~~an~~ the individual responsible
28 for administering the overall athletic program of an
29 educational institution or, if an educational institution has
30 separately administered athletic programs for male students and
31 female students, the athletic program for males or the athletic
32 program for females, as appropriate.

33 Sec. 5. Section 9A.102, subsection 4, Code 2017, is amended
34 by striking the subsection and inserting in lieu thereof the
35 following:

LSB 1693XC (2) 87
av/nh

2/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 4. *“Educational institution”* means a public or private
2 elementary school, secondary school, technical or vocational
3 school, community college, college, or university.

4 Sec. 6. Section 9A.102, subsection 5, Code 2017, is amended
5 to read as follows:

6 5. *“Endorsement contract”* means an agreement under which a
7 student athlete is employed or receives consideration to use on
8 behalf of the other party any value that the ~~student~~ athlete
9 may have because of publicity, reputation, following, or fame
10 obtained because of athletic ability or performance.

11 Sec. 7. Section 9A.102, Code 2017, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 5A. *“Enrolled”* means registered for courses
14 and attending athletic practice or class. *“Enrolls”* has a
15 corresponding meaning.

16 Sec. 8. Section 9A.102, subsection 6, Code 2017, is amended
17 to read as follows:

18 6. *“Intercollegiate sport”* means a sport played at the
19 collegiate level for which eligibility requirements for
20 participation by a student athlete are established by a
21 national association ~~for the promotion or regulation of that~~
22 promotes or regulates collegiate athletics.

23 Sec. 9. Section 9A.102, Code 2017, is amended by adding the
24 following new subsections:

25 NEW SUBSECTION. 6A. *“Interscholastic sport”* means a sport
26 played between educational institutions that are not community
27 colleges, colleges, or universities.

28 NEW SUBSECTION. 6B. *“Licensed, registered, or certified*
29 *professional”* means an individual licensed, registered, or
30 certified as an attorney, dealer in securities, financial
31 planner, insurance producer, real estate broker or sales agent,
32 tax consultant, accountant, or member of a profession, other
33 than that of athlete agent, who is licensed, registered, or
34 certified by the state or a nationally recognized organization
35 that licenses, registers, or certifies members of the

LSB 1693XC (2) 87

-3-

av/nh

3/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 profession on the basis of experience, education, or testing.

2 Sec. 10. Section 9A.102, subsections 7 and 8, Code 2017, are
3 amended to read as follows:

4 7. "*Person*" means an individual, ~~corporation~~ estate,
5 ~~business trust, estate, trust, partnership, limited liability~~
6 ~~company, association, joint venture~~ or nonprofit entity, public
7 corporation, government, or governmental subdivision, agency,
8 ~~or instrumentality, public corporation, or any other legal or~~
9 ~~commercial~~ entity.

10 8. "*Professional sports services contract*" means an agreement
11 under which an individual is employed, as a professional
12 athlete or agrees to render services, ~~as a player on a~~
13 ~~professional sports team, or with a professional sports~~
14 ~~organization, or as a professional athlete.~~

15 Sec. 11. Section 9A.102, Code 2017, is amended by adding the
16 following new subsections:

17 NEW SUBSECTION. 9A. "*Recruit or solicit*" means attempt to
18 influence the choice of an athlete agent by a student athlete
19 or, if the athlete is a minor, a parent or guardian of the
20 athlete. "*Recruit or solicit*" does not include giving advice on
21 the selection of a particular agent in a family, coaching, or
22 social situation unless the individual giving the advice does
23 so because of the receipt or anticipated receipt of an economic
24 benefit, directly or indirectly, from the agent.

25 NEW SUBSECTION. 10A. "*Sign*" means, with present intent to
26 authenticate or adopt a record, doing any of the following:

- 27 a. Executing or adopting a tangible symbol.
28 b. Attaching to or logically associating with the record an
29 electronic symbol, sound, or process.

30 Sec. 12. Section 9A.102, subsection 12, Code 2017, is
31 amended to read as follows:

32 12. "*Student athlete*" means an individual who is eligible to
33 attend an educational institution and engages in, is eligible
34 to engage in, or may be eligible in the future to engage in, any
35 interscholastic or intercollegiate sport. If "*Student athlete*"

LSB 1693XC (2) 87

-4-

av/nh

4/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 does not include an individual ~~is~~ permanently ineligible to
2 participate in a particular interscholastic or intercollegiate
3 ~~sport, the individual is not a student athlete for purposes of~~
4 that sport.

5 Sec. 13. Section 9A.103, Code 2017, is amended to read as
6 follows:

7 ~~9A.103 Service of process — subpoenas~~ Secretary of state —
8 authority — procedure.

9 1. Chapter 17A applies to this chapter. The secretary
10 of state may adopt rules under chapter 17A to implement this
11 chapter.

12 ~~1.~~ 2. By acting as an athlete agent in this state, a
13 nonresident individual appoints the secretary of state as the
14 individual's agent for service of process in any civil action
15 in this state related to the ~~individual's~~ individual acting as a
16 athlete agent in this state.

17 ~~2.~~ 3. The secretary of state may issue ~~subpoenas~~ a subpoena
18 for ~~any~~ material that is relevant to the administration of this
19 chapter.

20 Sec. 14. Section 9A.104, subsections 2 and 3, Code 2017, are
21 amended to read as follows:

22 2. Before being issued a certificate of registration under
23 this chapter, an individual may act as an athlete agent in this
24 state for all purposes except signing an agency contract, if
25 all of the following occur:

26 a. A student athlete or another person acting on behalf
27 of the ~~student~~ athlete initiates communication with the
28 individual.

29 b. ~~Within~~ Not later than seven days after an initial act
30 that requires the individual to register as an athlete agent,
31 the individual submits an application for registration as an
32 athlete agent in this state.

33 3. An agency contract resulting from conduct in violation of
34 this section is void, and the athlete agent shall return any
35 consideration received under the contract.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Sec. 15. Section 9A.105, Code 2017, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **9A.105 Registration as athlete agent — application —**
4 **requirements — reciprocal registration.**

5 1. An applicant for registration as an athlete agent shall
6 submit an application for registration to the secretary of
7 state in a form prescribed by the secretary of state. The
8 applicant shall be an individual, and the application filed
9 must be signed by the applicant under penalty of perjury. The
10 application shall contain at least all of the following:

11 *a.* The name, date, and place of birth of the applicant and
12 the following contact information for the applicant:

13 (1) The address of the applicant's principal place of
14 business.

15 (2) Work and mobile telephone numbers.

16 (3) Any means of communicating electronically, including
17 a facsimile number, electronic mail address, and personal,
18 business, and employer internet sites.

19 *b.* The name of the applicant's business or employer, if
20 applicable, including for each business or employer, its
21 mailing address, telephone number, organization form, and the
22 nature of the business.

23 *c.* Each social media account with which the applicant or the
24 applicant's business or employer is affiliated.

25 *d.* Each business or occupation in which the applicant
26 engaged within five years before the date of the application,
27 including self-employment and employment by others, and
28 any professional or occupational license, registration, or
29 certification held by the applicant during that time.

30 *e.* A description of the applicant, including:

31 (1) Formal training as an athlete agent.

32 (2) Practical experience as an athlete agent.

33 (3) Educational background relating to the applicant's
34 activities as an athlete agent.

35 *f.* The name of each student athlete for whom the applicant

LSB 1693XC (2) 87

-6-

av/nh

6/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 acted as an athlete agent within five years before the date
2 of the application or, if the student athlete is a minor, the
3 name of the parent or guardian of the minor, together with the
4 athlete's sport and last-known team.

5 *g.* The name and address of each person that is any of the
6 following:

7 (1) A partner, member, officer, manager, associate,
8 or profit sharer or directly or indirectly holds an equity
9 interest of five percent or greater of the athlete agent's
10 business if it is not a corporation.

11 (2) An officer or director of a corporation employing the
12 athlete agent or a shareholder having an interest of five
13 percent or greater in the corporation.

14 *h.* A description of the status of any application by the
15 applicant, or any person named under paragraph "g", for a state
16 or federal business, professional, or occupational license,
17 other than as an athlete agent, from a state or federal agency,
18 including any denial, refusal to renew, suspension, withdrawal,
19 or termination of the license and any reprimand or censure
20 related to the license.

21 *i.* Whether the applicant, or any person named under
22 paragraph "g", has pleaded guilty or no contest to, has been
23 convicted of, or has charges pending for, a crime that would
24 involve moral turpitude or be a felony if committed in this
25 state, and, if so, identification of the following:

26 (1) The crime.

27 (2) The law enforcement agency involved.

28 (3) If applicable, the date of the conviction and the fine
29 or penalty imposed.

30 *j.* Whether, within fifteen years before the date of
31 application, the applicant, or any person named under paragraph
32 "g", has been a defendant or respondent in a civil proceeding,
33 including a proceeding seeking an adjudication of legal
34 incompetence and, if so, the date and a full explanation of
35 each proceeding.

LSB 1693XC (2) 87
av/nh

7/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 *k.* Whether the applicant, or any person named under
2 paragraph “g”, has an unsatisfied judgment or a judgment of
3 continuing effect, including alimony or a domestic order in the
4 nature of child support, which is not current at the date of
5 the application.

6 *l.* Whether, within ten years before the date of application,
7 the applicant, or any person named under paragraph “g”, was
8 adjudicated bankrupt or was an owner of a business that was
9 adjudicated bankrupt.

10 *m.* Whether there has been any administrative or judicial
11 determination that the applicant, or any person named under
12 paragraph “g”, made a false, misleading, deceptive, or
13 fraudulent representation.

14 *n.* Each instance in which conduct of the applicant, or any
15 person named under paragraph “g”, resulted in the imposition
16 of a sanction, suspension, or declaration of ineligibility
17 to participate in an interscholastic, intercollegiate, or
18 professional athletic event on a student athlete or a sanction
19 on an educational institution.

20 *o.* Each sanction, suspension, or disciplinary action taken
21 against the applicant, or any person named under paragraph “g”,
22 arising out of occupational or professional conduct.

23 *p.* Whether there has been a denial of an application for,
24 suspension or revocation of, refusal to renew, or abandonment
25 of, the registration of the applicant, or any person named
26 under paragraph “g”, as an athlete agent in any state.

27 *q.* Each state in which the applicant currently is registered
28 as an athlete agent or has applied to be registered as an
29 athlete agent.

30 *r.* If the applicant is certified or registered by a
31 professional league or players association, and if so, the
32 following information:

33 (1) The name of the league or association.

34 (2) The date of certification or registration, and the date
35 of expiration of the certification or registration, if any.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 (3) If applicable, the date of any denial of an application
2 for, suspension or revocation of, refusal to renew, withdrawal
3 of, or termination of, the certification or registration or
4 any reprimand or censure related to the certification or
5 registration.

6 *s.* Any additional information required by the secretary of
7 state by rule.

8 2. Instead of proceeding under subsection 1, an individual
9 registered as an athlete agent in another state may apply for
10 registration as an athlete agent in this state by submitting to
11 the secretary of state the following:

12 *a.* A copy of the application for registration in another
13 state.

14 *b.* A statement that identifies any material change in the
15 information on the application or verifies there is no material
16 change in the information, signed under penalty of perjury.

17 *c.* A copy of the certificate of registration from the other
18 state.

19 3. The secretary of state shall issue a certificate of
20 registration to an individual who applies for registration
21 under subsection 2 if the secretary of state determines the
22 following:

23 *a.* The application and registration requirements of the
24 other state are substantially similar to or more restrictive
25 than this chapter.

26 *b.* The registration has not been revoked or suspended and
27 no action involving the individual's conduct as an athlete
28 agent is pending against the individual or the individual's
29 registration in any state.

30 4. For purposes of implementing subsection 3, the secretary
31 of state shall do the following:

32 *a.* Cooperate with national organizations concerned with
33 athlete agent issues and agencies in other states which
34 register athlete agents to develop a common registration form
35 and determine which states have laws that are substantially

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 similar to or more restrictive than this chapter.

2 *b.* Exchange information, including information related
3 to actions taken against registered athlete agents or their
4 registrations, with those organizations and agencies.

5 Sec. 16. Section 9A.106, Code 2017, is amended to read as
6 follows:

7 **9A.106 Certificate of registration — issuance or denial —**
8 **renewal.**

9 1. Except as otherwise provided in [subsection 2](#), the
10 secretary of state shall issue a certificate of registration
11 to an ~~individual~~ applicant for registration who complies with
12 section 9A.105, subsection 1, ~~or whose application has been~~
13 ~~accepted under [section 9A.105, subsection 2](#).~~

14 2. The secretary of state may refuse to issue a certificate
15 of registration to an applicant for registration under section
16 9A.105, subsection 1, if the secretary of state determines that
17 the applicant has engaged in conduct that ~~has a significant~~
18 ~~adverse effect~~ significantly adversely reflects on the
19 applicant's fitness to act as an athlete agent. In making the
20 determination, the secretary of state may consider whether the
21 applicant has done the following:

22 *a.* Been Pleased guilty or no contest to, has been convicted
23 of, or has charges pending for, a crime that, would involve
24 moral turpitude or be a felony if committed in this state,
25 ~~would be a crime involving moral turpitude or a felony.~~

26 *b.* Made a materially false, misleading, deceptive, or
27 fraudulent representation in the application or as an athlete
28 agent.

29 *c.* Engaged in conduct that would disqualify the applicant
30 from serving in a fiduciary capacity.

31 *d.* Engaged in conduct prohibited by [section 9A.114](#).

32 *e.* Had a ~~certificate of registration or licensure~~ as an
33 athlete agent suspended, revoked, or denied ~~or been~~ in any
34 state.

35 *f.* Been refused renewal ~~of a certificate of registration or~~

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 licensure as an athlete agent in any state.

2 ~~f. g.~~ Engaged in conduct ~~which resulted~~ resulting in
3 the imposition of a sanction, suspension, or declaration
4 of ineligibility to participate in an interscholastic, ~~or~~
5 intercollegiate, ~~or professional~~ athletic event on, ~~of, or by~~ a
6 student athlete or a sanction on an educational institution.

7 ~~g. h.~~ Engaged in conduct that significantly adversely
8 reflects on the applicant's credibility, honesty, or integrity.

9 3. In making a determination under [subsection 2](#), the
10 secretary of state shall consider the following:

11 a. How recently the conduct occurred.

12 b. The nature of the conduct and the context in which it
13 occurred.

14 c. ~~Any other~~ Other relevant conduct of the applicant.

15 4. An athlete agent registered under subsection 1 may apply
16 to renew a ~~certificate of the~~ registration by submitting an
17 application for renewal in a form prescribed by the secretary
18 of state. ~~An application filed under this section is a public~~
19 ~~record.~~ The applicant shall sign the application for renewal
20 ~~must be signed by the applicant~~ under penalty of perjury
21 and ~~must contain~~ include current information on all matters
22 required in an original application for registration.

23 5. ~~An individual who has submitted an application for~~
24 ~~renewal of a certificate of~~ athlete agent registered under
25 section 9A.105, subsection 3, may renew the registration
26 ~~or licensure in another state, in lieu of submitting an~~
27 ~~application for renewal in the form prescribed pursuant to~~
28 by proceeding under subsection 4 or, may file a copy of the
29 ~~application for renewal and a valid certificate of~~ if the
30 ~~registration or licensure from~~ in the other state has been
31 renewed, by submitting to the secretary of state copies of the
32 application for renewal in the other state and the renewed
33 registration from the other state. The secretary of state
34 shall ~~accept the application for renewal from the other state~~
35 ~~as an application for renewal in this state if the application~~

LSB 1693XC (2) 87

-11-

av/nh

11/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 ~~to the other state complies with~~ renew the registration if the
2 secretary of state determines all of the following:

3 ~~a. Was submitted in the other state within the six-month~~
4 ~~period immediately preceding the filing in this state and~~
5 ~~the applicant certifies the information contained in the~~
6 ~~application for renewal in the other state is current.~~

7 ~~b. a. Contains information~~ The registration requirements
8 of the other state are substantially similar to or more
9 comprehensive restrictive than that required in an application
10 for renewal submitted in this state chapter.

11 ~~c. Was signed by the applicant under penalty of perjury.~~

12 b. The renewed registration has not been suspended or
13 revoked and no action involving the individual's conduct as
14 an athlete agent is pending against the individual or the
15 individual's registration in any state.

16 ~~6. An original~~ A certificate of registration or a renewal
17 of a certificate of registration under this chapter is valid
18 for two years.

19 Sec. 17. Section 9A.107, Code 2017, is amended to read as
20 follows:

21 **9A.107 Suspension, revocation, or refusal to renew**
22 **registration.**

23 1. The secretary of state may limit, suspend, revoke, or
24 refuse to renew a certificate of registration of an individual
25 registered under section 9A.106, subsection 1, for conduct that
26 would have justified denial of refusal to issue a certificate
27 of registration under section 9A.106, subsection 2.

28 2. The secretary of state may ~~deny~~, suspend, or revoke, ~~or~~
29 ~~refuse to renew a certificate of the~~ registration or licensure
30 only after proper notice and an opportunity for a hearing held
31 in accordance with chapter 17A of an individual registered
32 under section 9A.105, subsection 3, or renewed under section
33 9A.106, subsection 5, for any reason for which the secretary of
34 state could have refused to grant or renew registration or for
35 conduct that would justify refusal to issue a certificate of

LSB 1693XC (2) 87

-12-

av/nh

12/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 registration under section 9A.106, subsection 2.

2 Sec. 18. Section 9A.108, Code 2017, is amended to read as
3 follows:

4 **9A.108 Temporary registration.**

5 The secretary of state may issue a temporary certificate
6 of registration as an athlete agent while an application for
7 registration or renewal of registration is pending.

8 Sec. 19. Section 9A.109, Code 2017, is amended to read as
9 follows:

10 **9A.109 Registration and renewal fees.**

11 An application for registration or renewal of registration
12 as an athlete agent shall be accompanied by a ~~reasonable~~
13 ~~registration or renewal of registration~~ fee sufficient to
14 offset expenses incurred in the administration of ~~this chapter~~
15 as established by the secretary of state.

16 Sec. 20. Section 9A.110, Code 2017, is amended to read as
17 follows:

18 **9A.110 Required form of agency contract.**

19 1. An agency contract shall be in a record, signed, ~~or~~
20 ~~otherwise authenticated~~ by the parties.

21 2. An agency contract shall contain the following
22 information:

23 a. A statement that the agent is registered as an athlete
24 agent in this state and a list of any other states in which the
25 agent is registered as an athlete agent.

26 ~~a.~~ b. The amount and method of calculating the
27 consideration to be paid by the student athlete for services
28 to be provided by the ~~athlete~~ agent under the contract and any
29 other consideration the ~~athlete~~ agent has received or will
30 receive from any other source for entering into the contract
31 or ~~for~~ providing the services.

32 ~~b.~~ c. The name of any person not listed in the agent's
33 application for registration or renewal of registration ~~who~~
34 which will be compensated because the ~~student~~ athlete signed
35 the ~~agency~~ contract.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 ~~e. d.~~ The A description of any expenses ~~that the student~~
2 athlete agrees to reimburse.

3 ~~d. e.~~ The A description of the services to be provided to
4 the ~~student~~ athlete.

5 ~~e. f.~~ The duration of the contract.

6 ~~f. g.~~ The date of execution ~~of the contract~~.

7 3. ~~An~~ Subject to subsection 7, an agency contract must
8 contain, ~~in close proximity to the signature of the student~~
9 ~~athlete,~~ a conspicuous notice in boldface type ~~in capital~~
10 ~~letters and in substantially the following form~~ stating:

11 WARNING TO STUDENT ATHLETE

12 IF YOU SIGN THIS CONTRACT:

13 [1] YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
14 ATHLETE IN YOUR SPORT;

15 [2] IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS
16 AFTER ~~ENTERING INTO~~ SIGNING THIS CONTRACT OR BEFORE THE NEXT
17 SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER
18 OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR
19 ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND
20 PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT;
21 AND

22 [3] YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
23 SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE
24 YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.

25 4. An agency contract ~~that does not conform to this section~~
26 ~~is voidable~~ must be accompanied by a separate record signed by
27 the student athlete. If a student or, if the athlete voids an
28 agency contract, the student athlete is not required to pay any
29 consideration under the contract or to return any consideration
30 received from the athlete agent to induce the student athlete
31 to enter into is a minor, the parent or guardian of the
32 athlete, acknowledging that signing the contract may result in
33 the loss of the athlete's eligibility to participate in the
34 athlete's sport.

35 5. A student athlete or, if the athlete is a minor, the

LSB 1693XC (2) 87

-14-

av/nh

14/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 parent or guardian of the athlete, may void an agency contract
2 that does not conform to this section. If the contract is
3 voided, any consideration received from the athlete agent
4 under the contract to induce entering into the contract is not
5 required to be returned.

6 5. ~~6. The~~ At the time an agency contract is executed, the
7 athlete agent shall give the student athlete or, if the athlete
8 is a minor, the parent or guardian of the athlete, a copy in a
9 record of the signed or otherwise authenticated agency contract
10 to the student athlete at the time of execution of the contract
11 and the separate acknowledgment required by subsection 4.

12 7. If a student athlete is a minor, an agency contract must
13 be signed by the parent or guardian of the minor and the notice
14 required by subsection 3 shall be revised accordingly.

15 Sec. 21. Section 9A.111, Code 2017, is amended to read as
16 follows:

17 9A.111 Notice to educational institution.

18 1. In this section, "communicating or attempting to
19 communicate" means contacting or attempting to contact by an
20 in-person meeting, a record, or any other method that conveys
21 or attempts to convey a message.

22 ~~1. 2. Within~~ Not later than seventy-two hours after
23 entering into an agency contract or before the next scheduled
24 athletic event in which the student athlete may participate,
25 whichever occurs first, the athlete agent shall give notice
26 in a record of the existence of the contract to the athletic
27 director of the educational institution at which the ~~student~~
28 athlete is enrolled or at which the ~~athlete~~ agent has
29 reasonable grounds to believe the ~~student~~ athlete intends to
30 enroll.

31 ~~2. 3. Within~~ Not later than seventy-two hours after
32 entering into an agency contract or before the next scheduled
33 athletic event in which the student athlete may participate,
34 whichever occurs first, the ~~student~~ athlete shall inform the
35 athletic director of the educational institution at which the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 ~~student~~ athlete is enrolled ~~or intends to enroll~~ that the
2 ~~student~~ athlete has entered into an agency contract and the
3 name and contact information of the athlete agent.

4 4. If an athlete agent enters into an agency contract with
5 a student athlete and the athlete subsequently enrolls at an
6 educational institution, the agent shall notify the athletic
7 director of the educational institution of the existence of
8 the agency contract not later than seventy-two hours after the
9 agent knew or should have known the athlete enrolled.

10 5. If an athlete agent has a relationship with a student
11 athlete before the athlete enrolls in an educational
12 institution and receives an athletic scholarship from the
13 educational institution, the agent shall notify the educational
14 institution of the relationship not later than ten days after
15 the enrollment if the agent knows or should have known of the
16 enrollment and either of the following applies:

17 a. The relationship was motivated in whole or part by the
18 intention of the agent to recruit or solicit the athlete to
19 enter an agency contract in the future.

20 b. The agent directly or indirectly recruited or solicited
21 the athlete to enter an agency contract before the enrollment.

22 6. An athlete agent shall give notice in a record to the
23 athletic director of any educational institution at which a
24 student athlete is enrolled before the agent communicates or
25 attempts to communicate with either of the following for the
26 following purposes:

27 a. The athlete or, if the athlete is a minor, a parent or
28 guardian of the athlete, to influence the athlete or parent or
29 guardian to enter into an agency contract.

30 b. Another individual to have that individual influence the
31 athlete or, if the athlete is a minor, the parent or guardian
32 of the athlete, to enter into an agency contract.

33 7. If a communication or attempt to communicate with an
34 athlete agent is initiated by a student athlete or another
35 individual on behalf of the athlete, the agent shall notify in

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 a record the athletic director of any educational institution
2 at which the athlete is enrolled. The notification must
3 be made not later than ten days after the communication or
4 attempt.

5 8. An educational institution that becomes aware of a
6 violation of this chapter by an athlete agent shall notify
7 the secretary of state and any professional league or players
8 association with which the institution is aware the agent is
9 licensed or registered of the violation.

10 Sec. 22. Section 9A.112, Code 2017, is amended to read as
11 follows:

12 **9A.112 Student athlete's right to cancel.**

13 1. A student athlete or, if the athlete is a minor, the
14 parent or guardian of the athlete, may cancel an agency
15 contract by giving notice in a record of ~~the~~ cancellation to
16 the athlete agent ~~in a record within~~ not later than fourteen
17 days after the contract is signed.

18 2. A student athlete ~~shall~~ or, if the athlete is a minor,
19 the parent or guardian of the athlete, may not waive the right
20 to cancel an agency contract.

21 3. If a student athlete, parent, or guardian cancels an
22 agency contract, the ~~student~~ athlete, parent, or guardian is
23 not required to pay any consideration under the contract or
24 ~~to~~ return any consideration received from the athlete agent
25 to ~~induce~~ influence the ~~student~~ athlete to enter into the
26 contract.

27 Sec. 23. Section 9A.113, Code 2017, is amended to read as
28 follows:

29 **9A.113 Required records.**

30 1. An athlete agent shall create and retain ~~the following~~
31 ~~records for a period of five years~~ records of the following:

32 a. The name and address of each individual represented by
33 the athlete agent.

34 b. ~~Any~~ Each agency contract entered into by the athlete
35 agent.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 ~~Any~~ The direct costs incurred by the ~~athlete~~ agent in the
2 recruitment or solicitation of a each student athlete to enter
3 into an agency contract.

4 2. Records ~~required to be retained pursuant to~~ described in
5 subsection 1 are open to inspection by the secretary of state
6 during normal business hours.

7 Sec. 24. Section 9A.114, Code 2017, is amended to read as
8 follows:

9 **9A.114 Prohibited conduct.**

10 1. An athlete agent, with the intent to ~~induce~~ influence
11 a student athlete or, if the student athlete is a minor, the
12 parent or guardian of the student athlete, to enter into an
13 agency contract, shall not ~~do~~ take any of the following actions
14 or encourage any other individual to take or assist any other
15 individual in taking any of the following actions on behalf of
16 the agent:

17 ~~a. Give any~~ materially false, or misleading, deceptive,
18 or fraudulent information or make a materially false promise
19 or a ~~materially false, misleading, deceptive, or fraudulent~~
20 representation.

21 ~~b. Furnish anything of value to a student~~ the athlete before
22 the ~~student~~ athlete enters into the agency contract.

23 ~~c. Furnish anything of value to any an~~ individual other than
24 the ~~student~~ athlete or another registered athlete agent.

25 2. An athlete agent shall not intentionally do any of the
26 following or encourage any other individual to do any of the
27 following on behalf of the agent:

28 ~~a. Initiate contact,~~ directly or indirectly, with a student
29 athlete or, if the athlete is a minor, a parent or guardian
30 of the athlete, to recruit or solicit the athlete, parent, or
31 guardian to enter an agency agreement unless registered under
32 this chapter.

33 ~~b. Refuse or fail~~ Fail to create or retain or to permit
34 inspection of the records required ~~to be retained~~ by section
35 9A.113.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

- 1 *c.* Fail to register when required by [section 9A.104](#).
2 *d.* Provide materially false or misleading information in an
3 application for registration or renewal of registration.
4 *e.* Predate or postdate an agency contract.
5 *f.* Fail to notify a student athlete or, if the athlete is a
6 minor, a parent or guardian of the athlete before the student
7 athlete, parent, or guardian signs ~~or otherwise authenticates~~
8 an agency contract for a particular sport that the signing
9 ~~or authentication~~ may make the student athlete ineligible to
10 participate as a student athlete in that sport.

11 Sec. 25. Section 9A.116, subsection 1, Code 2017, is amended
12 to read as follows:

13 1. An educational institution ~~has a right of~~ or student
14 athlete may bring an action for damages against an athlete
15 agent if the institution or a former student athlete for
16 damages caused is adversely affected by a an act or omission
17 of the agent in violation of [this chapter](#). ~~In an action under~~
18 ~~this section, the court may award costs and reasonable attorney~~
19 ~~fees to the prevailing party.~~ An educational institution or
20 student athlete is adversely affected by an act or omission
21 of the agent only if, because of the act or omission, the
22 institution or an individual who was a student athlete at the
23 time of the act or omission and enrolled in the institution is
24 either of the following:

25 *a.* Suspended or disqualified from participation in an
26 interscholastic or intercollegiate sports event by or under
27 the rules of a state or national federation or association
28 that promotes or regulates interscholastic or intercollegiate
29 sports.

30 *b.* Suffers financial damage.

31 Sec. 26. Section 9A.116, subsections 2 and 3, Code 2017,
32 are amended by striking the subsections and inserting in lieu
33 thereof the following:

34 2. A plaintiff that prevails in an action under this
35 section may recover actual damages, and costs and reasonable

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 attorney fees. An athlete agent found liable under this
2 section forfeits any right of payment for anything of benefit
3 or value provided to the student athlete and shall refund any
4 consideration paid to the agent by or on behalf of the athlete.

5 3. A violation of this chapter is an unlawful practice
6 pursuant to section 714.16, subsection 2, paragraph "p". The
7 provisions of section 714.16, including but not limited to
8 provisions relating to investigation, injunctive relief, and
9 penalties, shall apply to this chapter.

10 Sec. 27. Section 9A.116, subsections 4 and 5, Code 2017, are
11 amended by striking the subsections.

12 Sec. 28. Section 9A.117, Code 2017, is amended to read as
13 follows:

14 **9A.117 Administrative penalty.**

15 The secretary of state may assess a civil penalty against an
16 athlete agent not to exceed ~~twenty-five~~ fifty thousand dollars
17 for a violation of [this chapter](#).

18 Sec. 29. Section 9A.118, Code 2017, is amended to read as
19 follows:

20 **9A.118 Uniformity of application and construction.**

21 In applying and construing [this chapter](#), consideration must
22 be given to the need to promote uniformity of the law with
23 respect to the subject matter of [this chapter](#) among states that
24 enact the revised uniform athlete agents Act (2015).

25 Sec. 30. Section 9A.119, Code 2017, is amended by striking
26 the section and inserting in lieu thereof the following:

27 **9A.119 Relation to Electronic Signatures in Global and
28 National Commerce Act.**

29 This chapter modifies, limits, or supersedes the federal
30 Electronic Signatures in Global and National Commerce Act, 15
31 U.S.C. §7001 et seq., but does not modify, limit, or supersede
32 section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize
33 electronic delivery of any of the notices described in section
34 103(b) of that Act, 15 U.S.C. §7003(b).

35 Sec. 31. NEW SECTION. **9A.120 Severability.**

LSB 1693XC (2) 87

-20-

av/nh

20/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 If any provision of this chapter or its application to any
2 person or circumstance is held invalid, the invalidity does
3 not affect other provisions or applications of this chapter
4 which can be given effect without the invalid provision or
5 application, and to this end the provisions of this chapter are
6 severable.

7 Sec. 32. Section 714.16, subsection 2, Code 2017, is amended
8 by adding the following new paragraph:

9 NEW PARAGRAPH. p. It is an unlawful practice for an athlete
10 agent to violate any of the provisions of chapter 9A.

11 **EXPLANATION**

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill revises the "Uniform Athlete Agents Act" contained
15 in Code chapter 9A, and provides remedies and penalties. The
16 revised Code chapter may be cited as the "Revised Uniform
17 Athlete Agents Act (2015)".

18 Code section 9A.102 is amended by striking and rewriting
19 the definition of "athlete agent". Code section 9A.102 is
20 amended by modifying existing definitions of "agency contract";
21 "athletic director"; "endorsement contract"; "intercollegiate
22 sport"; "person"; "professional sports services contract"; and
23 "student athlete". New definitions are added for "educational
24 institution"; "enrolled" or "enrolls"; "interscholastic sport";
25 "licensed, registered, or certified professional"; "recruit
26 or solicit"; and "sign". The bill deletes the definition of
27 "contact".

28 Code section 9A.103 is amended to expressly provide that the
29 secretary of state may adopt rules under Code chapter 17A to
30 implement the chapter.

31 Code section 9A.104 is amended to provide that an individual
32 may act as an athlete agent, except for signing an agency
33 contract, if a student athlete or a person acting on the
34 athlete's behalf initiates communication with the individual
35 and the individual submits an application for registration as

LSB 1693XC (2) 87

-21-

av/nh

21/26

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 an athlete agent in this state not later than seven days after
2 an initial act that requires the individual to register.
3 Code section 9A.105 is stricken and rewritten. Code section
4 9A.105(1) specifies information that must be included in an
5 application for registration as an athlete agent.

6 Code section 9A.105(2) provides that instead of submitting
7 an application under Code section 9A.105(1), an individual
8 registered as an athlete agent in another state may apply for
9 registration as an agent in this state by submitting a copy of
10 the application and certificate from the other state, and a
11 statement indicating any material changes.

12 Code section 9A.105(3) requires the secretary of state
13 to issue a certificate of registration in this state if the
14 application and registration requirements in the other state
15 are substantially similar or are more restrictive and the
16 agent's registration has not been revoked or suspended and is
17 not under pending action in any state.

18 Code section 9A.105(4) directs the secretary of state to
19 cooperate with national organizations concerned with athlete
20 agent issues and agencies in other states which register
21 athlete agents to develop a common registration form and
22 to exchange information related to actions taken against
23 registered athlete agents or their registrations.

24 Code section 9A.106, regarding the issuance or denial of
25 certificates of registration as an athlete agent or a renewal
26 of a certificate, is amended. The secretary of state can
27 consider not only whether an applicant has been convicted of a
28 crime that would involve moral turpitude or be a felony, but
29 whether the applicant has pleaded guilty or no contest to such
30 a crime. The secretary of state can also consider whether
31 an applicant has engaged in conduct resulting in a sanction,
32 suspension, or declaration of ineligibility to participate in
33 an interscholastic, intercollegiate, or professional athletic
34 event on a student athlete or a sanction on an educational
35 institution.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 Code section 9A.107, concerning suspension, revocation,
2 or refusal to renew registration of an athlete agent, is
3 amended to allow the secretary of state to also limit such
4 registration. The secretary of state may suspend or revoke the
5 registration in this state of an individual registered as an
6 athlete agent in another state for any reason for which the
7 secretary could have refused to grant, renew, or refuse to
8 issue registration to an individual registered as an athlete
9 agent only in this state.

10 Code section 9A.108 is amended to specify that the secretary
11 of state may issue a temporary certificate of registration
12 as an athlete agent while an application for registration or
13 renewal is pending.

14 Code section 9A.110 is amended to modify specifications
15 for what must be included in an agency contract. The bill
16 specifies that if an athlete is a minor, the parent or guardian
17 of the athlete may sign or void an agency contract and is
18 entitled to a copy of the contract.

19 Code section 9A.111 is amended to add requirements
20 related to an athlete agent's duty to give certain notice to
21 educational institutions. For purposes of this Code section,
22 "communicating or attempting to communicate" means contacting
23 or attempting to contact by an in-person meeting, a record, or
24 any other method that conveys or attempts to convey a message.

25 Code section 9A.111 is amended to require an athlete agent
26 to notify the athletic director of an educational institution
27 of the existence of an agency contract not later than 72 hours
28 after the agent knew or should have known the student athlete
29 enrolled in an educational institution. The agent must also
30 notify the educational institution not later than 10 days after
31 the agent knew or should have known of the student athlete's
32 enrollment if the agent has a relationship with the athlete
33 motivated by the intention of the agent to recruit or solicit
34 the athlete to enter into an agency contract in the future or
35 the agent directly or indirectly recruited or solicited the

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 athlete to enter into a contract before the enrollment. The
2 athlete agent must also give notice to the athletic director of
3 the educational institution before communicating or attempting
4 to communicate with the athlete or, if the athlete is a minor,
5 the athlete's parent or guardian, or with another individual,
6 to influence the athlete to enter into an agency contract.
7 If the student athlete initiates a communication or attempts
8 to communicate with an agent, the agent shall notify the
9 athletic director of the educational institution in which the
10 student athlete is enrolled, not later than 10 days after the
11 communication or attempt to communicate is made by the athlete.

12 Code section 9A.111 is also amended to provide that an
13 educational institution that becomes aware of a violation of
14 Code chapter 9A by an athlete agent is required to notify the
15 secretary of state and any professional league or players
16 association with which the institution is aware the agent is
17 licensed or registered of the violation.

18 Code section 9A.112 is amended to provide that if a student
19 athlete is a minor, the parent or guardian of the athlete may
20 cancel an agency contract not later than 14 days after the
21 contract is signed. If the contract is canceled, the athlete,
22 parent, or guardian is not required to pay any consideration
23 under the contract or repay any consideration received from the
24 athlete agent to induce the athlete to enter into the contract.

25 Code section 9A.113 is amended to require an athlete agent
26 to create and retain records containing specified information
27 which is open to inspection by the secretary of state during
28 normal business hours.

29 Code section 9A.114 is amended to extend prohibited conduct
30 of an athlete agent to conduct involving the parent or guardian
31 of a student athlete who is a minor. An athlete agent is
32 prohibited from taking, or encouraging another individual on
33 behalf of the agent to take, specified actions. An athlete
34 agent is prohibited from initiating contact, directly or
35 indirectly, with a student athlete or a minor athlete's parent

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 or guardian to recruit or solicit the athlete, parent, or
2 guardian to enter into an agency agreement, unless the agent is
3 registered under Code chapter 9A. The agent is also prohibited
4 from failing to notify a student athlete, or a minor athlete's
5 parent or guardian, before signing an agency contract for a
6 particular sport that signing the contract may make the student
7 athlete ineligible to participate as a student athlete in that
8 sport.

9 Code section 9A.116 is amended to provide that an
10 educational institution or a student athlete may bring an
11 action for damages against an athlete agent if the institution
12 or athlete is adversely affected by an act or omission of the
13 agent in violation of Code chapter 9A. The bill provides that
14 an educational institution or student athlete is adversely
15 affected by an act or omission of the agent only if, because of
16 the act or omission, the institution or an individual who was a
17 student athlete at the time of the act or omission and enrolled
18 in the institution, either is suspended or disqualified from
19 participation in an interscholastic or intercollegiate sports
20 event by or under the rules of a state or national federation
21 or association that promotes or regulates interscholastic or
22 intercollegiate sports, or suffers financial damage.

23 Code section 9A.116 is also amended to provide that a
24 plaintiff who prevails in an action under the Code section
25 may recover actual damages, and costs and reasonable attorney
26 fees. An athlete agent found liable under this Code section
27 forfeits any right of payment by the student athlete and must
28 refund any consideration paid to the agent by or on behalf of
29 the student athlete. The bill also provides that a violation
30 of Code chapter 9A is an unlawful practice under Code section
31 714.16 and the provisions of that Code section relating to
32 investigation, injunctive relief, and penalties also apply
33 to Code chapter 9A. A corresponding change is made to Code
34 section 714.16 specifying that it is an unlawful practice for
35 an athlete agent to violate any of the provisions of Code

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____

1 chapter 9A.

2 Code section 9A.117 is amended to provide that the secretary
3 of state may assess a civil penalty against an athlete agent
4 not to exceed \$50,000 instead of \$25,000.

5 Code section 9A.118 is amended to reflect that the bill
6 amends Code chapter 9A to contain the subject matter of the
7 Revised Uniform Athlete Agents Act (2015).

8 Code section 9A.119 is stricken and rewritten to provide
9 that Code chapter 9A modifies, limits, or supersedes the
10 federal Electronic Signatures in Global and Commerce Act,
11 but does not modify, limit, or supersede section 101(c) of
12 the federal Act pertaining to consumer access to information
13 electronically, or authorize electronic delivery of certain
14 specified notices.

15 New Code section 9A.120 makes the provisions of Code chapter
16 9A severable in the event that the provisions of the Code
17 chapter or their applicability to any person or circumstance
18 is found to be invalid.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1097 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT
OF COMMERCE/ALCOHOLIC
BEVERAGES DIVISION BILL)

A BILL FOR

1 An Act relating to alcoholic beverage control and matters under
2 the purview of the alcoholic beverages division of the
3 department of commerce.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1266XD (14) 87
ec/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 DIVISION I
2 ALCOHOLIC BEVERAGE CONTROL
3 Section 1. Section 123.3, subsection 25, Code 2017, is
4 amended to read as follows:
5 25. *“Licensed premises”* or *“premises”* means all rooms,
6 enclosures, contiguous areas, or places susceptible of precise
7 description satisfactory to the administrator where alcoholic
8 beverages, wine, or beer is sold or consumed under authority
9 of a liquor control license, wine permit, or beer permit.
10 A single licensed premises may consist of multiple rooms,
11 enclosures, areas, or places if they are wholly within the
12 confines of a single building or contiguous grounds, or areas
13 or places susceptible of precise description satisfactory to
14 the administrator.
15 Sec. 2. Section 123.3, Code 2017, is amended by adding the
16 following new subsection:
17 NEW SUBSECTION. 30A. *“Original container”* means a vessel
18 containing an alcoholic beverage that has been lawfully
19 obtained, bears a label approved by the alcohol and tobacco
20 tax and trade bureau of the United States department of the
21 treasury, and has been securely capped, sealed, or corked at
22 the location of manufacture.
23 Sec. 3. Section 123.22, Code 2017, is amended to read as
24 follows:
25 **123.22 State monopoly.**
26 1. The division has the exclusive right of importation
27 into the state of all forms of alcoholic liquor, except as
28 otherwise provided in [this chapter](#), and a person shall not
29 import alcoholic liquor, except that an individual of legal age
30 may import and have in the individual’s possession an amount
31 of alcoholic liquor not exceeding one liter or, in the case of
32 alcoholic liquor personally obtained outside the United States,
33 four liters for personal consumption only in a private home
34 or other private accommodation. A distillery shall not sell
35 alcoholic liquor within the state to any person but only to

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 the division, except as otherwise provided in [this chapter](#).
2 This section vests in the division exclusive control within the
3 state as purchaser of all alcoholic liquor sold by distilleries
4 within the state or imported, except beer and wine, and except
5 as otherwise provided in [this chapter](#). The division shall
6 receive alcoholic liquor on a bailment system for resale by the
7 division in the manner set forth in [this chapter](#). The division
8 shall act as the sole wholesaler of alcoholic liquor to class
9 "E" liquor control licensees.

10 2. No person, acting individually or through another
11 acting for the person shall directly or indirectly, or upon
12 any pretense, or by any device, manufacture, sell, exchange,
13 barter, dispense, give in consideration of the purchase of any
14 property or of any services or in evasion of [this chapter](#), or
15 keep for sale, or have possession of any intoxicating liquor,
16 except as provided in [this chapter](#); or own, keep, or be in any
17 way concerned, engaged, or employed in owning or keeping, any
18 intoxicating liquor with intent to violate any provision of
19 this chapter, or authorize or permit the same to be done; or
20 manufacture, own, sell, or have possession of any manufactured
21 or compounded article, mixture or substance, not in a liquid
22 form, and containing alcohol which may be converted into a
23 beverage by a process of pressing or straining the alcohol
24 therefrom, or any instrument intended for use and capable of
25 being used in the manufacture of intoxicating liquor; or own
26 or have possession of any material used exclusively in the
27 manufacture of intoxicating liquor; or use or have possession
28 of any material with intent to use it in the manufacture of
29 intoxicating liquors; however, alcohol may be manufactured
30 for industrial and nonbeverage purposes by persons who have
31 qualified for that purpose as provided by the laws of the
32 United States and the laws of this state. Such alcohol, so
33 manufactured, may be denatured, transported, used, possessed,
34 sold, and bartered and dispensed, subject to the limitations,
35 prohibitions and restrictions imposed by the laws of the United

LSB 1266XD (14) 87
ec/nh

2/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 States and this state. Any person may manufacture, sell, or
2 transport ingredients and devices other than alcohol for the
3 making of homemade wine or beer.

4 Sec. 4. Section 123.23, subsection 2, Code 2017, is amended
5 to read as follows:

6 2. At the time of applying for a certificate of compliance,
7 each applicant shall submit to the division electronically,
8 or in a manner prescribed by the administrator, the name and
9 address of its authorized agent for service of process which
10 shall remain effective until changed for another, and a list
11 of names and addresses of all representatives, employees, or
12 attorneys whom the applicant has appointed in the state of Iowa
13 to represent it for any purpose. The listing shall be amended
14 ~~from time to time~~ by the certificate holder as necessary to
15 keep the listing current with the division.

16 Sec. 5. Section 123.28, Code 2017, is amended to read as
17 follows:

18 **123.28 Restrictions on transportation.**

19 1. It is lawful to transport, carry, or convey alcoholic
20 liquors from the place of purchase by the division to a state
21 warehouse or depot established by the division or from one such
22 place to another and, when so permitted by [this chapter](#), it is
23 lawful for the division, a common carrier, or other person to
24 transport, carry, or convey alcoholic liquor sold from a state
25 warehouse, depot, or point of purchase by the state to any
26 place to which the liquor may be lawfully delivered under this
27 chapter.

28 2. The division shall deliver alcoholic liquor purchased by
29 class "E" liquor control licensees. Class "E" liquor control
30 licensees may deliver alcoholic liquor purchased by class "A",
31 "B", or "C" liquor control licensees, and class "A", "B", or
32 "C" liquor control licensees may transport alcoholic liquor
33 purchased from class "E" liquor control licensees.

34 3. A common carrier or other person shall not break or
35 open or allow to be broken or opened a container or package

LSB 1266XD (14) 87
ec/nh

3/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 containing alcoholic liquor or use or drink or allow to be used
2 or drunk any alcoholic liquor while it is being transported or
3 conveyed, ~~but this.~~

4 4. This section does not prohibit a private person from
5 transporting individual bottles or containers of alcoholic
6 liquor exempted pursuant to section 123.22 and individual
7 bottles or containers bearing the identifying mark prescribed
8 in section 123.26 which have been opened previous to the
9 commencement of the transportation.

10 5. This section does not affect the right of a special
11 permit or liquor control license holder to purchase, possess,
12 or transport alcoholic liquors subject to this chapter.

13 Sec. 6. Section 123.30, subsection 1, paragraph c, Code
14 2017, is amended to read as follows:

15 c. As a further condition for the issuance of a class "E"
16 liquor control license, the applicant shall post a bond in
17 a sum of not less than five thousand nor more than fifteen
18 thousand dollars as determined on a sliding scale established
19 by the division; however, a bond shall not be required if all
20 purchases of alcoholic liquor from the division by the licensee
21 are made ~~by cash payment or~~ by means that ensure that the
22 division will receive full payment in advance of delivery of
23 the alcoholic liquor.

24 Sec. 7. Section 123.31, subsections 6 and 7, Code 2017, are
25 amended by striking the subsections.

26 Sec. 8. Section 123.32, subsection 6, paragraph b, Code
27 2017, is amended to read as follows:

28 b. Upon receipt of an application having been approved by
29 the local authority, the division shall make an investigation
30 as the administrator deems necessary to determine that the
31 applicant complies with all requirements for holding a license
32 or permit, and may require the applicant to appear to be
33 examined under oath to demonstrate that the applicant complies
34 with all of the requirements to hold a license or permit. If
35 the administrator requires the applicant to appear and to

LSB 1266XD (14) 87
ec/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 testify under oath, a record shall be made of all testimony or
2 evidence and the record shall become a part of the application.
3 The administrator may appoint a member of the division or
4 may request an administrative law judge of the department of
5 inspections and appeals to receive the testimony under oath
6 and evidence, and to issue a proposed decision to approve
7 or disapprove the application for a license or permit. The
8 administrator may affirm, reverse, or modify the proposed
9 decision to approve or disapprove the application for the
10 license or permit. If the application is approved by the
11 administrator, the license or permit shall be issued. If the
12 application is disapproved by the administrator, the applicant
13 ~~and the appropriate local authority~~ shall be so notified by
14 certified mail and the appropriate local authority shall be
15 notified electronically, or in a manner prescribed by the
16 administrator.

17 Sec. 9. Section 123.33, Code 2017, is amended to read as
18 follows:

19 **123.33 Records.**

20 Every holder of a ~~liquor control~~ license shall keep a daily
21 ~~record, in printed or electronic format, of the gross receipts~~
22 of the holder's business or permit under this chapter shall
23 maintain records, in printed and electronic format, which
24 include income statements, balance sheets, purchase and sales
25 invoices, purchase and sales ledgers, and any other records as
26 the administrator may require. The records required and the
27 premises of the licensee or permittee shall be accessible and
28 open to inspection pursuant to [section 123.30, subsection 1](#),
29 during normal business hours of the licensee or permittee.

30 Sec. 10. Section 123.34, subsection 1, Code 2017, is amended
31 to read as follows:

32 1. Liquor control licenses, wine permits, and beer permits,
33 unless sooner suspended or revoked, expire one year from
34 date of issuance. The administrator shall give sixty days'
35 written notice of the expiration to each licensee or permittee.

LSB 1266XD (14) 87

-5-

ec/nh

5/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 However, the administrator may issue six-month or eight-month
2 seasonal licenses, class "B" wine permits, or class "B" beer
3 permits for a proportionate part of the license or permit fee
4 or may issue fourteen-day liquor control licenses, native wine
5 permits, or beer permits as provided in subsection 2. No
6 refund shall be made for seasonal licenses or permits or for
7 fourteen-day liquor control licenses, native wine permits, or
8 beer permits. No seasonal license or permit shall be renewed
9 except. However, after a period of two months the applicant
10 may apply for a new seasonal license or permit for the same
11 location.

12 Sec. 11. Section 123.49, subsection 2, paragraph b, Code
13 2017, is amended to read as follows:

14 b. Sell or dispense any alcoholic beverage ~~or beer~~ on
15 the premises covered by the license or permit, or permit its
16 consumption thereon between the hours of 2:00 a.m. and 6:00
17 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday
18 and 6:00 a.m. on the following Monday, however, a holder of a
19 liquor control license or retail wine or beer permit granted
20 the privilege of selling alcoholic liquor, wine, or beer on
21 Sunday may sell or dispense alcoholic liquor, wine, or beer
22 between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the
23 following Monday.

24 Sec. 12. Section 123.49, subsection 2, paragraph k, Code
25 2017, is amended by striking the paragraph.

26 Sec. 13. Section 123.51, subsection 1, Code 2017, is amended
27 to read as follows:

28 1. No signs or other matter advertising any brand of
29 alcoholic liquor, beer, or wine shall be erected or placed upon
30 the outside of any premises occupied by a licensee or permittee
31 authorized to sell alcoholic liquor, beer, or wine at retail.
32 ~~This subsection does not prohibit the use of signs~~ However,
33 signs or other advertising matter may be erected or placed
34 inside the premises, inside a fence or similar enclosure which
35 wholly or partially surrounds the licensed premises, or inside

LSB 1266XD (14) 87

-6-

ec/nh

6/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 a window facing outward from the premises.

2 Sec. 14. Section 123.175, Code 2017, is amended by striking
3 the section and inserting in lieu thereof the following:

4 **123.175 Class "A" or retail wine permit application and**
5 **issuance.**

6 1. A person applying for a class "A" or retail wine permit
7 shall submit an application electronically, or in a manner
8 prescribed by the administrator, which shall set forth under
9 oath the following:

10 *a.* The name and place of residence of the applicant.

11 *b.* The names and addresses of all persons or, in the case of
12 a corporation, the officers, directors, and persons owning or
13 controlling ten percent or more of the capital stock thereof,
14 having a financial interest, by way of loan, ownership, or
15 otherwise, in the business.

16 *c.* The location of the premises where the applicant intends
17 to operate.

18 *d.* The name of the owner of the premises and if the owner of
19 the premises is not the applicant, whether the applicant is the
20 actual lessee of the premises.

21 *e.* When required by the administrator, and in such form and
22 containing such information as the administrator may require,
23 a description of the premises where the applicant intends to
24 use the permit, to include a sketch or drawing of the premises
25 and, if applicable, the number of square feet of interior floor
26 space which comprises the retail sales area of the premises.

27 *f.* Whether any person specified in paragraph "b" has ever
28 been convicted of any offense against the laws of the United
29 States, or any state or territory thereof, or any political
30 subdivision of any such state or territory.

31 *g.* Any other information as required by the administrator.

32 2. The administrator shall issue a class "A" or retail wine
33 permit to any applicant who establishes all of the following:

34 *a.* That the applicant has submitted a completed application
35 as required by subsection 1.

LSB 1266XD (14) 87
ec/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 *b.* That the applicant is a person of good moral character as
2 provided in section 123.3, subsection 34.

3 *c.* That the applicant is a citizen of the state of Iowa
4 or, if a corporation, that the applicant is authorized to do
5 business in the state.

6 *d.* That the premises where the applicant intends to use the
7 permit conforms to all applicable laws, health regulations, and
8 fire regulations, and constitutes a safe and proper place or
9 building.

10 *e.* That the applicant gives consent to a person, pursuant
11 to section 123.30, subsection 1, to enter upon the premises
12 without a warrant during the business hours of the applicant
13 to inspect for violations of the provisions of this chapter or
14 ordinances and regulations that local authorities may adopt.

15 *f.* That the applicant has submitted, in the case of a class
16 "A" wine permit, a bond in the amount of five thousand dollars
17 in a manner prescribed by the administrator with good and
18 sufficient sureties to be approved by the division conditioned
19 upon compliance with this chapter.

20 Sec. 15. Section 123.178B, subsection 4, Code 2017, is
21 amended to read as follows:

22 4. A person holding a class "C" native wine permit and a
23 class "A" wine permit whose primary purpose is manufacturing
24 native wine may purchase beer from a wholesaler holding a class
25 "A" beer permit for sale at retail for consumption on or off
26 the premises covered by the class "C" native wine permit.

27 Sec. 16. Section 123.180, subsection 2, Code 2017, is
28 amended to read as follows:

29 2. At the time of applying for a vintner's certificate of
30 compliance, each applicant shall file with the division a list
31 of all class "A" wine permittees with whom it intends to do
32 business. The listing of class "A" wine permittees as filed
33 with the division may shall be amended ~~from time to time~~ by the
34 holder of the certificate of compliance as necessary to keep
35 the listing current with the division.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 Sec. 17. Section 123.183, subsection 2, paragraph a, Code
2 2017, is amended to read as follows:

3 a. Revenue collected from the wine gallonage tax on wine
4 manufactured for sale and sold at wholesale in this state,
5 and on wine subject to direct shipment as provided in section
6 123.187 by a wine manufacturer licensed or permitted pursuant
7 to laws regulating alcoholic beverages in this state, shall be
8 deposited in the wine gallonage tax fund as created in this
9 section.

10 Sec. 18. Section 123.187, subsection 2, paragraph c, Code
11 2017, is amended to read as follows:

12 c. An application submitted pursuant to paragraph "a"
13 shall also be accompanied by a bond in the amount of five
14 thousand dollars in the form prescribed and furnished by the
15 division with good and sufficient sureties to be approved by
16 the division conditioned upon compliance with this chapter.
17 However, a wine manufacturer that has submitted a bond pursuant
18 to section 123.175, subsection 3 2, paragraph "f", shall not be
19 required to provide a bond as provided in this paragraph.

DIVISION II

BEER PERMITS

22 Sec. 19. Section 123.30, subsection 3, paragraph e,
23 subparagraph (1), Code 2017, is amended to read as follows:

24 (1) A class "E" liquor control license may be issued and
25 shall authorize the holder to purchase alcoholic liquor from
26 the division only and high alcoholic content beer from a class
27 ~~"AA"~~ "A" beer permittee only and to sell the alcoholic liquor
28 and high alcoholic content beer to patrons for consumption off
29 the licensed premises and to other liquor control licensees.
30 A holder of a class "E" liquor control license may hold other
31 retail liquor control licenses or retail wine or beer permits,
32 but the premises licensed under a class "E" liquor control
33 license shall be separate from other licensed premises, though
34 the separate premises may have a common entrance. However,
35 the holder of a class "E" liquor control license may also hold

LSB 1266XD (14) 87

-9-

ec/nh

9/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 a class "B" wine or class "C" beer permit or both for the
2 premises licensed under a class "E" liquor control license.
3 Sec. 20. Section 123.124, Code 2017, is amended by striking
4 the section and inserting in lieu thereof the following:

5 **123.124 Beer permits — classes.**

6 Permits for the manufacture and sale, or sale, of beer shall
7 be divided into four classes, known as class "A", special
8 class "A", class "B", or class "C" beer permits. A holder of
9 a class "A" or special class "A" beer permit shall have the
10 authority as provided in section 123.130. A holder of a class
11 "B" beer permit shall have the authority as provided in section
12 123.131, and a holder of a class "C" beer permit shall have the
13 authority as provided in section 123.132.

14 Sec. 21. Section 123.125, Code 2017, is amended to read as
15 follows:

16 **123.125 Issuance of beer permits.**

17 The administrator shall issue class "A", special class "A",
18 ~~class "AA", special class "AA",~~ class "B", and class "C" beer
19 permits and may suspend or revoke permits for cause as provided
20 in [this chapter](#).

21 Sec. 22. Section 123.127, Code 2017, is amended by striking
22 the section and inserting in lieu thereof the following:

23 **123.127 Class "A" and special class "A" beer permit**
24 **application and issuance.**

25 1. A person applying for a class "A" or special class "A"
26 beer permit shall submit an application electronically, or in a
27 manner prescribed by the administrator, which shall set forth
28 under oath the following:

29 a. The name and place of residence of the applicant.

30 b. The names and addresses of all persons or, in the case of
31 a corporation, the officers, directors, and persons owning or
32 controlling ten percent or more of the capital stock thereof,
33 having a financial interest, by way of loan, ownership, or
34 otherwise, in the business.

35 c. The location of the premises where the applicant intends

LSB 1266XD (14) 87

-10-

ec/nh

10/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 to operate.

2 *d.* The name of the owner of the premises and if the owner of
3 the premises is not the applicant, whether the applicant is the
4 actual lessee of the premises.

5 *e.* When required by the administrator, and in such form and
6 containing such information as the administrator may require,
7 a description of the premises where the applicant intends to
8 use the permit, to include a sketch or drawing of the premises
9 and, if applicable, the number of square feet of interior floor
10 space which comprises the retail sales area of the premises.

11 *f.* Whether any person specified in paragraph "*b*" has ever
12 been convicted of any offense against the laws of the United
13 States, or any state or territory thereof, or any political
14 subdivision of any such state or territory.

15 *g.* Any other information as required by the administrator.

16 2. The administrator shall issue a class "A" or special
17 class "A" beer permit to any applicant who establishes all of
18 the following:

19 *a.* That the applicant has submitted a completed application
20 as required by subsection 1.

21 *b.* That the applicant is a person of good moral character as
22 provided in section 123.3, subsection 34.

23 *c.* That the applicant is a citizen of the state of Iowa
24 or, if a corporation, that the applicant is authorized to do
25 business in the state.

26 *d.* That the premises where the applicant intends to use the
27 permit conforms to all applicable laws, health regulations, and
28 fire regulations, and constitutes a safe and proper place or
29 building.

30 *e.* That the applicant gives consent to a person, pursuant
31 to section 123.30, subsection 1, to enter upon the premises
32 without a warrant during the business hours of the applicant
33 to inspect for violations of the provisions of this chapter or
34 ordinances and regulations that local authorities may adopt.

35 *f.* That the applicant has submitted a bond in the amount

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 of ten thousand dollars in a manner prescribed by the
2 administrator with good and sufficient sureties to be approved
3 by the division conditioned upon compliance with this chapter.

4 *g.* If the person is applying for a special class "A" beer
5 permit, that the applicant holds or has applied for a class "C"
6 liquor control license or class "B" beer permit.

7 Sec. 23. Section 123.128, subsection 1, paragraph a, Code
8 2017, is amended to read as follows:

9 *a.* All the information required of an applicant by section
10 123.127, subsection 1, ~~paragraph "a"~~.

11 Sec. 24. Section 123.128, subsection 2, Code 2017, is
12 amended to read as follows:

13 2. Fulfills the requirements of section 123.127, subsection
14 ~~2, paragraph paragraphs~~ "b", "c", and "d".

15 Sec. 25. Section 123.129, subsection 2, paragraphs a and b,
16 Code 2017, are amended to read as follows:

17 *a.* Submits an application electronically, or in a manner
18 prescribed by the administrator, which shall state under
19 oath all the information required of an applicant by section
20 123.127, subsection 1, ~~paragraph "a"~~.

21 *b.* ~~Establishes that the person is of good moral character as~~
22 ~~defined by this chapter~~ Fulfills the requirements of section
23 123.127, subsection 2, paragraphs "b", "c", and "d".

24 Sec. 26. Section 123.129, subsection 2, paragraph d, Code
25 2017, is amended by striking the paragraph.

26 Sec. 27. Section 123.130, Code 2017, is amended to read as
27 follows:

28 123.130 Authority under class "A", ~~class "AA", and special~~
29 class "A", and special class "AA" beer permits.

30 1. Any person holding a class "A" ~~or class "AA"~~ beer permit
31 issued by the division shall be authorized to manufacture
32 and sell, or sell at wholesale, beer for consumption off
33 the premises, such sales within the state to be made only
34 to persons holding subsisting class "A", "B", or "C" beer
35 permits, or liquor control licenses issued in accordance with

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 the provisions of [this chapter](#). A class "A", ~~class "AA"~~,
2 ~~or~~ special class "A", ~~or special class "AA"~~ beer permit does
3 not grant authority to manufacture wine as defined in section
4 123.3, subsection 47.

5 2. All class "A" ~~and class "AA"~~ premises shall be located
6 within the state. All beer received by the holder of a
7 class "A" ~~or class "AA"~~ beer permit from the holder of a
8 certificate of compliance before being resold must first come
9 to rest on the licensed premises of the permit holder, must be
10 inventoried, and is subject to the barrel tax when resold as
11 provided in [section 123.136](#). A class "A" ~~or class "AA"~~ beer
12 permittee shall not store beer overnight except on premises
13 licensed under a class "A" ~~or class "AA"~~ beer permit.

14 3. All special class "A" ~~and special class "AA"~~ premises
15 shall be located within the state. A person who holds a
16 special class "A" ~~or special class "AA"~~ beer permit for the
17 same location at which the person holds a class "C" liquor
18 control license or class "B" beer permit may manufacture
19 and sell beer to be consumed on the premises, may sell at
20 retail at the manufacturing premises for consumption off the
21 premises beer that is transferred at the time of sale from
22 the original container to another container that is no larger
23 than seventy-two ounces, may sell beer to a class "A" ~~or class~~
24 ~~"AA"~~ beer permittee for resale purposes, and may sell beer to
25 distributors outside of the state that are authorized by the
26 laws of that jurisdiction to sell beer at wholesale.

27 Sec. 28. Section 123.131, Code 2017, is amended to read as
28 follows:

29 **123.131 Authority under class "B" beer permit.**

30 1. Subject to the provisions of [this chapter](#), any person
31 holding a class "B" beer permit shall be authorized to sell
32 beer for consumption on or off the premises. Sales of beer
33 for consumption off the premises made pursuant to this section
34 shall be made in original containers except as provided in
35 subsection 2. However, unless otherwise provided in this

LSB 1266XD (14) 87

-13-

ec/nh

13/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 chapter, no sale of beer shall be made for consumption on
2 the premises unless the place where such service is made is
3 equipped with tables and seats sufficient to accommodate not
4 less than twenty-five persons at one time.

5 2. Subject to the rules of the division, sales of beer for
6 consumption off the premises made pursuant to this section may
7 be made in a container other than the original container only
8 if all of the following requirements are met:

9 a. The beer is transferred from the original container to
10 the container to be sold on the licensed premises at the time
11 of sale.

12 b. The person transferring the beer from the original
13 container to the container to be sold shall be eighteen years
14 of age or more.

15 c. The container to be sold shall be no larger than
16 seventy-two ounces.

17 d. The container to be sold shall be securely sealed by a
18 method authorized by the division that is designed so that if
19 the sealed container is reopened or the seal tampered with, it
20 is visibly apparent that the seal on the container of beer has
21 been tampered with or the sealed container has otherwise been
22 reopened.

23 3. A container of beer other than the original container
24 that is sold and sealed in compliance with the requirements of
25 subsection 2 and the rules of the division shall not be deemed
26 an open container subject to the requirements of sections
27 321.284 and 321.284A if the sealed container is unopened and
28 the seal has not been tampered with, and the contents of the
29 container have not been partially removed.

30 4. A person holding a class "B" beer permit and a class "A"
31 beer permit whose primary purpose is manufacturing beer may
32 purchase wine from a wholesaler holding a class "A" wine permit
33 for sale at retail for consumption on the premises covered by
34 the class "B" beer permit.

35 Sec. 29. Section 123.134, subsection 1, Code 2017, is

LSB 1266XD (14) 87

-14-

ec/nh

14/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 amended to read as follows:

2 1. The annual permit fee for a class "A" or special class
3 "A" beer permit is ~~two~~ seven hundred fifty dollars.

4 Sec. 30. Section 123.134, subsection 2, Code 2017, is
5 amended by striking the subsection.

6 Sec. 31. Section 123.135, Code 2017, is amended to read as
7 follows:

8 **123.135 Certificate of compliance — civil penalty.**

9 1. A manufacturer, brewer, bottler, importer, or vendor of
10 beer, or any agent thereof, desiring to ship or sell beer, or
11 have beer brought into this state for resale by a class "A"
12 ~~or class "AA"~~ beer permittee, shall first make application
13 for and be issued a brewer's certificate of compliance by the
14 administrator for that purpose. The certificate of compliance
15 expires at the end of one year from the date of issuance
16 and shall be renewed for a like period upon application to
17 the administrator unless otherwise revoked for cause. Each
18 application for a certificate of compliance or renewal of a
19 certificate shall be submitted electronically, or in a manner
20 prescribed by the administrator, and shall be accompanied
21 by a fee of five hundred dollars payable to the division.
22 Each holder of a certificate of compliance shall furnish the
23 information in a manner the administrator requires.

24 2. At the time of applying for a certificate of compliance,
25 each applicant shall file with the division a list of all class
26 "A" ~~and class "AA"~~ beer permittees with whom it intends to do
27 business and shall designate the geographic area in which its
28 products are to be distributed by such permittee. The listing
29 of class "A" ~~and class "AA"~~ beer permittees and geographic area
30 as filed with the division ~~may~~ shall be amended ~~from time to~~
31 ~~time~~ by the holder of a certificate of compliance as necessary
32 to keep the listing current with the division.

33 3. All class "A" ~~and class "AA"~~ beer permit holders shall
34 sell only those brands of beer which are manufactured, brewed,
35 bottled, shipped, or imported by a person holding a current

LSB 1266XD (14) 87

-15-

ec/nh

15/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 certificate of compliance. Any employee or agent working for
2 or representing the holder of a certificate of compliance
3 within this state shall submit electronically, or in a manner
4 prescribed by the administrator, the employee's or agent's name
5 and address with the division.

6 4. It shall be unlawful for any holder of a certificate of
7 compliance or the holder's agent, or any class "A" ~~or class~~
8 ~~"AA"~~ beer permit holder or the beer permit holder's agent, to
9 grant to any retail beer permit holder, directly or indirectly,
10 any rebates, free goods, or quantity discounts on beer which
11 are not uniformly offered to all retail permittees.

12 5. Notwithstanding any other penalties provided by this
13 chapter, any holder of a certificate of compliance or any class
14 "A" ~~or class "AA"~~ beer permit holder who violates [this chapter](#)
15 or the rules adopted pursuant to [this chapter](#) is subject to a
16 civil penalty not to exceed one thousand dollars or suspension
17 of the holder's certificate or permit for a period not to
18 exceed one year, or both such civil penalty and suspension.
19 Civil penalties imposed under [this section](#) shall be collected
20 and retained by the division.

21 Sec. 32. Section 123.136, subsection 1, Code 2017, is
22 amended to read as follows:

23 1. In addition to the annual permit fee to be paid by all
24 class "A" ~~and class "AA"~~ beer permittees under [this chapter](#)
25 there shall be levied and collected from the permittees on all
26 beer manufactured for sale or sold in this state at wholesale
27 and on all beer imported into this state for sale at wholesale
28 and sold in this state at wholesale, and from special class "A"
29 ~~and special class "AA"~~ beer permittees on all beer manufactured
30 for consumption on the premises and on all beer sold at retail
31 at the manufacturing premises for consumption off the premises
32 pursuant to section 123.130, subsection 3, a tax of five and
33 eighty-nine hundredths dollars for every barrel containing
34 thirty-one gallons, and at a like rate for any other quantity
35 or for the fractional part of a barrel. However, no tax shall

LSB 1266XD (14) 87
ec/nh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 be levied or collected on beer shipped outside this state by a
2 class "A" ~~or class "AA"~~ beer permittee or sold by one class "A"
3 ~~or class "AA"~~ beer permittee to another class "A" ~~or class "AA"~~
4 beer permittee.

5 Sec. 33. Section 123.137, subsection 1, Code 2017, is
6 amended to read as follows:

7 1. A person holding a class "A", ~~class "AA", or~~ special
8 class "A", ~~or special class "AA"~~ beer permit shall, on or
9 before the tenth day of each calendar month commencing on the
10 tenth day of the calendar month following the month in which
11 the person is issued a beer permit, make a report under oath
12 to the division electronically, or in a manner prescribed by
13 the administrator, showing the exact number of barrels of
14 beer, or fractional parts of barrels, sold by the beer permit
15 holder during the preceding calendar month. The report shall
16 also state information the administrator requires, and beer
17 permit holders shall at the time of filing a report pay to the
18 division the amount of tax due at the rate fixed in section
19 123.136.

20 Sec. 34. Section 123.138, subsection 1, Code 2017, is
21 amended to read as follows:

22 1. Each class "A", ~~class "AA", or~~ special class "A", ~~or~~
23 ~~special class "AA"~~ beer permittee shall keep proper records
24 showing the amount of beer sold by the permittee, and these
25 records shall be at all times open to inspection by the
26 administrator and to other persons pursuant to section 123.30,
27 subsection 1. Each class "B" beer permittee, class "C" beer
28 permittee, or retail liquor control licensee shall keep proper
29 records showing each purchase of beer made by the permittee
30 or licensee, and the date and the amount of each purchase and
31 the name of the person from whom each purchase was made, which
32 records shall be open to inspection pursuant to section 123.30,
33 subsection 1, during normal business hours of the permittee or
34 licensee.

35 Sec. 35. Section 123.139, Code 2017, is amended to read as

LSB 1266XD (14) 87

-17-

ec/nh

17/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 follows:

2 123.139 ~~Separate locations — class “A”, class “AA”, or~~
3 ~~special class “A”, or special class “AA”~~ beer permit.

4 A class “A”, ~~class “AA”, or~~ special class “A”, ~~or special~~
5 ~~class “AA”~~ beer permittee having more than one place of
6 business is required to have a separate beer permit for each
7 separate place of business maintained by the permittee where
8 beer is stored, warehoused, or sold.

9 Sec. 36. Section 123.142, Code 2017, is amended to read as
10 follows:

11 123.142 Unlawful sale and importation.

12 1. It is unlawful for the holder of a class “B” or class
13 “C” beer permit issued under [this chapter](#) to sell beer, except
14 beer brewed on the premises covered by a special class “A”
15 ~~or special class “AA”~~ beer permit or beer purchased from a
16 person holding a class “A” ~~or class “AA”~~ beer permit issued in
17 accordance with [this chapter](#), and on which the tax provided in
18 section 123.136 has been paid. However, [this section](#) does not
19 apply to class “D” liquor control licensees as provided in this
20 chapter.

21 2. It shall be unlawful for any person not holding a class
22 “A” ~~or class “AA”~~ beer permit to import beer into this state
23 for the purpose of sale or resale.

24 Sec. 37. Section 123.143, subsection 3, Code 2017, is
25 amended to read as follows:

26 3. Barrel tax revenues collected on beer manufactured in
27 this state from a class “A” ~~or class “AA”~~ beer permittee which
28 owns and operates a brewery located in Iowa shall be credited
29 to the barrel tax fund hereby created in the office of the
30 treasurer of state. Moneys deposited in the barrel tax fund
31 shall not revert to the general fund of the state without a
32 specific appropriation by the general assembly. Moneys in the
33 barrel tax fund are appropriated to the economic development
34 authority for purposes of [section 15E.117](#).

35 Sec. 38. Section 123.144, subsection 1, Code 2017, is

LSB 1266XD (14) 87

-18-

ec/nh

18/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 amended to read as follows:

2 1. No person shall bottle beer within the state of Iowa,
3 except class "A", and special class "A", ~~class "AA", and~~
4 ~~special class "AA"~~ beer permittees who have complete equipment
5 for bottling beer and who have received the approval of the
6 local board of health as to sanitation. It shall be the duty of
7 local boards of health to inspect the premises and equipment of
8 class "A", and special class "A", ~~class "AA", and special class~~
9 ~~"AA"~~ beer permittees who desire to bottle beer.

10 DIVISION III

11 NATIVE DISTILLED SPIRITS

12 Sec. 39. Section 123.3, subsections 28 and 29, Code 2017,
13 are amended to read as follows:

14 28. ~~"Micro-distilled"~~ "Native distilled spirits" means
15 distilled spirits fermented, distilled, or, for a period of
16 two years, barrel matured on the licensed premises of the
17 ~~micro-distillery~~ native distillery where fermented, distilled,
18 or matured. ~~"Micro-distilled spirits"~~ "Native distilled spirits"
19 also includes blended or mixed spirits comprised solely of
20 spirits fermented, distilled, or, for a period of two years,
21 barrel matured at a ~~micro-distillery~~ native distillery.

22 29. ~~"Micro-distillery"~~ "Native distillery" means a
23 business with an ~~operational~~ operating still which, ~~combining~~
24 ~~all production facilities of the business,~~ produces and
25 manufactures ~~less than fifty thousand proof gallons of~~ native
26 distilled spirits ~~on an annual basis~~.

27 Sec. 40. Section 123.30, subsection 3, paragraph c, Code
28 2017, is amended by adding the following new subparagraph:

29 NEW SUBPARAGRAPH. (3) A class "C" native distilled spirits
30 license may be issued to a native distillery but shall be
31 issued in the name of the individuals who actually own the
32 business. The license shall authorize the holder to sell
33 native distilled spirits manufactured on the premises of the
34 native distillery to patrons by the individual drink for
35 consumption on the premises. All native distilled spirits sold

LSB 1266XD (14) 87

-19-

ec/nh

19/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 by a native distillery for on-premises consumption shall be
2 purchased from a class "E" liquor control licensee.

3 Sec. 41. Section 123.32, subsection 1, Code 2017, is amended
4 to read as follows:

5 1. *Filing of application.* An application for a class "A",
6 class "B", class "C", or class "E" liquor control license, ~~for~~
7 ~~a class "A" micro-distilled spirits permit,~~ for a retail beer
8 permit as provided in sections 123.128 and 123.129, or for a
9 class "B", class "B" native, or class "C" native retail wine
10 permit as provided in section 123.178, 123.178A, or 123.178B,
11 accompanied by the necessary fee and bond, if required, shall
12 be filed with the appropriate city council if the premises for
13 which the license or permit is sought are located within the
14 corporate limits of a city, or with the board of supervisors
15 if the premises for which the license or permit is sought are
16 located outside the corporate limits of a city. An application
17 for a class "D" liquor control license and for a class "A"
18 beer or class "A" wine permit, accompanied by the necessary
19 fee and bond, if required, shall be submitted to the division
20 electronically, or in a manner prescribed by the administrator,
21 which shall proceed in the same manner as in the case of an
22 application approved by local authorities.

23 Sec. 42. Section 123.36, Code 2017, is amended by adding the
24 following new subsection:

25 NEW SUBSECTION. 3A. Class "C" native distilled spirits
26 license, the sum of one thousand dollars.

27 Sec. 43. Section 123.36, subsection 5, Code 2017, is amended
28 to read as follows:

29 5. Any club, hotel, motel, native distillery, or commercial
30 establishment holding a liquor control license, subject to
31 section 123.49, subsection 2, paragraph "b", may apply for and
32 receive permission to sell and dispense alcoholic liquor and
33 wine to patrons on Sunday for consumption on the premises only,
34 and beer for consumption on or off the premises between the
35 hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 Monday. A class "D" liquor control licensee may apply for and
2 receive permission to sell and dispense alcoholic beverages to
3 patrons for consumption on the premises only between the hours
4 of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.
5 For the privilege of selling beer, wine, and alcoholic liquor
6 on the premises on Sunday the liquor control license fee of the
7 applicant shall be increased by twenty percent of the regular
8 fee prescribed for the license pursuant to [this section](#), and
9 the privilege shall be noted on the liquor control license.

10 Sec. 44. Section 123.43A, Code 2017, is amended to read as
11 follows:

12 **123.43A ~~Micro-distilled spirits~~ — permit Native**
13 **distilleries.**

14 1. Subject to rules of the division, a ~~micro-distillery~~
15 native distillery holding a ~~class "A" micro-distilled spirits~~
16 permit pursuant to [this section](#) manufacturer's license
17 issued pursuant to section 123.41 may sell or offer for sale
18 micro-distilled native distilled spirits. As provided in this
19 section, sales of native distilled spirits manufactured on the
20 premises may be made at retail for off-premises consumption
21 when sold on the premises of the ~~micro-distillery~~ native
22 distillery that manufactures ~~micro-distilled~~ the native
23 distilled spirits. All sales shall be made through the state's
24 wholesale distribution system.

25 2. A ~~micro-distillery~~ native distillery shall not sell
26 more than ~~one and one-half~~ nine liters per person per day,
27 of ~~micro-distilled native distilled~~ spirits on the premises
28 of the ~~micro-distillery~~ native distillery. ~~In addition, a~~
29 ~~micro-distillery~~ A native distillery shall not directly ship
30 ~~micro-distilled native distilled~~ spirits for sale at retail.
31 The ~~micro-distillery~~ native distillery shall maintain records
32 of individual purchases of ~~micro-distilled native distilled~~
33 spirits at the ~~micro-distillery~~ native distillery for three
34 years.

35 3. A ~~micro-distillery~~ native distillery shall not sell

LSB 1266XD (14) 87

-21-

ec/nh

21/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 ~~micro-distilled~~ native distilled spirits other than as
2 permitted in this chapter and shall not allow ~~micro-distilled~~
3 native distilled spirits sold for consumption off the premises
4 to be consumed upon the premises of the ~~micro-distillery~~ native
5 distillery. However, as a part of a ~~micro-distillery~~ native
6 distillery tour, ~~micro-distilled~~ native distilled spirits may
7 be tasted pursuant to the rules of the division on the premises
8 where fermented, distilled, or matured, when no charge is made
9 for the tasting.

10 4. ~~A class "A" micro-distilled spirits permit for a~~
11 ~~micro-distillery shall be issued and renewed annually upon~~
12 ~~payment of a fee of five hundred dollars.~~

13 5. The sale of ~~micro-distilled~~ native distilled spirits to
14 the division for wholesale disposition and sale by the division
15 shall be subject to the requirements of this chapter regarding
16 such disposition and sale.

17 ~~6.~~ 5. The division shall issue no more than three ~~permits~~
18 ~~under this section~~ manufacturer's licenses to a person
19 native distillery. In addition, a ~~micro-distillery~~ native
20 distillery issued a ~~permit~~ manufacturer's license under ~~this~~
21 section 123.41 shall file with the division, on or before the
22 fifteenth day of each calendar month, all documents filed by
23 the ~~micro-distillery~~ native distillery with the alcohol and
24 tobacco tax and trade bureau of the United States department of
25 the treasury, including all production, storage, and processing
26 reports.

27 ~~7. Micro-distilled spirits purchased at a micro-distillery~~
28 ~~shall not be consumed on any property owned, operated, or~~
29 ~~controlled by a micro-distillery.~~

30 6. Notwithstanding any provision of this chapter to
31 the contrary or the fact that a person is the holder of a
32 manufacturer's license, a native distillery may sell those
33 native distilled spirits manufactured on the premises of the
34 native distillery for consumption on the premises by applying
35 for a class "C" native distilled spirits license as provided

LSB 1266XD (14) 87
ec/nh

22/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 in section 123.30. A native distillery may be granted not
2 more than one class "C" native distilled spirits license.
3 All native distilled spirits sold by a native distillery for
4 on-premises consumption shall be purchased from a class "E"
5 liquor control licensee.

6 Sec. 45. Section 123.173A, subsections 4 and 7, Code 2017,
7 are amended to read as follows:

8 4. The authorized nonprofit entity conducting the charity
9 beer, spirits, and wine auction shall obtain the beer, spirits,
10 and wine to be auctioned at the charity beer, spirits, and wine
11 auction from an Iowa retail beer permittee, an Iowa retail
12 liquor control licensee, or an Iowa retail wine permittee, or
13 may receive donations of beer, spirits, or wine to be auctioned
14 at the charity beer, spirits, and wine auction from persons
15 who purchased the donated beer, spirits, or wine from an Iowa
16 retail beer permittee, an Iowa retail liquor control licensee,
17 an Iowa ~~micro-distilled spirits permittee~~ native distillery,
18 or an Iowa retail wine permittee and who present a receipt
19 documenting the purchase at the time the beer, spirits, or wine
20 is donated. The authorized nonprofit entity conducting the
21 charity beer, spirits, and wine auction shall retain a copy
22 of the receipt for a period of one year from the date of the
23 charity beer, spirits, and wine auction.

24 7. A liquor control licensee, beer permittee,
25 ~~micro-distilled spirits permittee~~ native distillery, or wine
26 permittee shall not purchase beer, spirits, or wine at a
27 charity beer, spirits, and wine auction. The charity beer,
28 spirits, and wine auction may be conducted on a premises for
29 which a class "B" liquor control license or class "C" liquor
30 control license has been issued, provided that the liquor
31 control licensee does not participate in the charity beer,
32 spirits, and wine auction, supply beer, spirits, or wine to be
33 auctioned at the charity beer, spirits, and wine auction, or
34 receive any of the proceeds of the charity beer, spirits, and
35 wine auction.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 possesses a federal gambling stamp and whether, if required,
2 all designated security employees have received security
3 employee training and certification as required by Code section
4 123.32.

5 Code section 123.32 is amended to provide that if an
6 application for a liquor control license or other permit is
7 disapproved by the administrator of the alcoholic beverages
8 division, the appropriate local authority shall be notified
9 electronically, or in a manner prescribed by the administrator,
10 instead of by certified mail. The applicant is still required
11 to be notified of the disapproval by certified mail.

12 Code section 123.33, concerning records required to be
13 maintained by a licensee or permittee, is amended to describe
14 the types of records to be maintained, which shall include
15 income statements, balance sheets, and purchase and sale
16 invoices and ledgers.

17 Code section 123.34, concerning seasonal licenses, is
18 amended to provide that an applicant may apply for a new
19 seasonal permit or license at the same location after two
20 months.

21 Code section 123.49 is amended to consolidate the rules
22 governing Sunday sales of alcoholic liquor, wine, or beer
23 within subsection 2, paragraph "b", of that section.

24 Code section 123.51, concerning allowable signs and branded
25 advertising of a licensee authorized to sell liquor, wine,
26 or beer at retail, is amended to provide that signs or other
27 advertising matter may be erected inside the premises and
28 inside a window facing outward from the premises.

29 Code section 123.175, concerning class "A" or retail
30 wine permit applications, is stricken and rewritten by the
31 bill. The bill provides specifically for the contents of
32 the application to be submitted to the administrator of the
33 alcoholic beverages division and what the applicant must
34 establish before the administrator issues a permit. In
35 addition to requirements currently provided in Code section

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 123.175, the bill provides that an applicant that is a
2 corporation shall list all officers and persons with a certain
3 financial interest in the corporation in the application. The
4 bill also requires an applicant to state in the application
5 whether certain persons required to be listed in the
6 application have been convicted of any offense and, if required
7 by the administrator of the division, to include in the
8 application a sketch or drawing of the premises. Code section
9 123.187 is amended to reflect the rewritten Code section.
10 Code section 123.178B, concerning class "C" native wine
11 permits, is amended to specify that a permittee authorized to
12 purchase beer for sale at retail may sell it for consumption
13 on or off the premises covered by the class "C" native wine
14 permit.
15 Code section 123.180, concerning a vintner's certificate of
16 compliance, is amended to provide that the listing of class "A"
17 wine permittees the applicant intends to do business with that
18 is filed with the alcoholic beverages division shall be amended
19 as necessary to keep the listing current.
20 Code section 123.183 is amended to provide that the
21 gallonage tax on wine is collected when the wine is sold at
22 wholesale.
23 DIVISION II — BEER PERMITS. This division eliminates
24 class "AA" and special class "AA" beer permits and makes other
25 changes relative to beer permits.
26 Code section 123.124, concerning beer permit classes, is
27 rewritten to reflect the elimination of class "AA" and special
28 class "AA" beer permits. The Code section is also amended to
29 refer to the Code sections that describe the authority for each
30 beer permit class.
31 Code section 123.127, concerning class "A" or class "AA"
32 and special class "A" or special class "AA" beer permits, is
33 stricken and rewritten by the bill. The bill eliminates the
34 class "AA" and special class "AA" beer permits and provides
35 specifically for the contents of the application to be

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 submitted to the administrator of the alcoholic beverages
2 division and what the applicant must establish before the
3 administrator issues a permit. The bill also increases from
4 \$5,000 to \$10,000 the amount of the bond an applicant must
5 submit to the administrator.

6 In addition to requirements currently provided in Code
7 section 123.127, the bill provides that an applicant that is a
8 corporation shall list all officers and persons with a certain
9 financial interest in the corporation in the application. The
10 bill also requires an applicant to state in the application
11 whether certain persons required to be listed in the
12 application have been convicted of any offense and, if required
13 by the administrator of the division, to include in the
14 application a sketch or drawing of the premises. Code sections
15 123.128 and 123.129, concerning class "B" and class "C" beer
16 permits, are amended to reflect the rewritten Code section.

17 Code section 123.130, is amended to eliminate class "AA"
18 and special class "AA" beer permits and provides that certain
19 special class "A" beer permittees may sell at retail at the
20 manufacturing premises for consumption off the premises beer
21 that is transferred at the time of sale from the original
22 container to another container that is no larger than 72
23 ounces.

24 Code section 123.131, concerning authority under a class "B"
25 beer permit, is amended to allow a class "B" beer permittee
26 whose primary purpose is manufacturing beer that also holds
27 a class "A" beer permit to purchase wine from a wholesaler
28 for sale at retail or consumption on the premises covered by
29 the class "B" beer permit. In addition, the Code section
30 is amended to provide that sales of beer for consumption
31 off the premises may be made in a container other than the
32 original container that is no larger than 72 ounces under
33 certain circumstances and shall be deemed an open container for
34 purposes of Code sections 321.284 and 321.284A.

35 Code section 123.134, concerning beer permit fees, is

LSB 1266XD (14) 87

-27-

ec/nh

27/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 amended to increase the annual fee for a class "A" or special
2 class "A" beer permit from \$250 to \$750.

3 Code section 123.135, concerning a certificate of compliance
4 concerning beer, is amended to provide that the listing of
5 class "A" permittees and geographic area as filed with the
6 alcoholic beverages division shall be amended as necessary to
7 keep the listing current.

8 Code section 123.136, concerning the barrel tax on beer,
9 is amended to provide that the tax applies to all beer
10 sold at retail by a special class "A" beer permittee at the
11 manufacturing premises for consumption off the premises.

12 DIVISION III — NATIVE DISTILLED SPIRITS. Code section
13 123.3, providing definitions, is amended to change the terms
14 "micro-distilled spirits" and "micro-distillery" to "native
15 distilled spirits" and "native distillery". In addition, the
16 bill eliminates the requirement that a native distillery has to
17 produce and manufacture less than 50 proof gallons of distilled
18 spirits annually. Corresponding changes in Code chapter 123
19 are made to reflect the changed definitions.

20 Code section 123.30, concerning liquor control licenses,
21 is amended to provide for the issuance of a class "C" native
22 distilled spirits license which authorizes the holder to sell
23 native distilled spirits manufactured on the premises for
24 consumption on the premises.

25 Code section 123.32, concerning applications for certain
26 licenses, is amended to eliminate the application for a class
27 "A" micro-distilled spirits permit.

28 Code section 123.36, concerning liquor fees, is amended to
29 provide that the annual fee for a class "C" native distilled
30 spirits license is \$1,000. The Code section is also amended to
31 allow a native distillery the ability to make certain sales of
32 alcoholic liquor, wine, and beer on Sundays in the same manner
33 as a club, hotel, motel, or other commercial establishment.

34 Code section 123.43A, concerning micro-distilled spirits, is
35 amended to reflect the change of the term to native distilled

LSB 1266XD (14) 87

-28-

ec/nh

28/29

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 spirits and the elimination of the class "A" micro-distilled
2 spirits permit. The Code section requires the native
3 distillery to obtain a manufacturer's license and limits
4 the number of manufacturer's licenses to three for a native
5 distillery. The Code section is also amended to allow for
6 sales of nine, instead of one and one-half, liters of native
7 distilled spirits per person per day. The Code section also
8 allows a native distillery to sell native distilled spirits
9 manufactured on the premises for consumption on the premises by
10 applying for a class "C" native distilled spirits license. A
11 native distillery may be granted not more than one class "C"
12 native distilled spirits license.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1098 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/CREDIT UNION
DIVISION BILL)

A BILL FOR

1 An Act relating to state credit union examinations and board
2 meetings called by the superintendent of credit unions, and
3 providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1366DP (5) 87
gh/rn/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 Section 1. Section 533.113, Code 2017, is amended to read
2 as follows:

3 **533.113 Examinations.**

4 1. The superintendent may do any or all of the following:

5 a. Make or cause to be made an examination of a credit
6 union whenever the superintendent believes such examination is
7 necessary or advisable, but in no event less frequently than
8 once during each twenty-four-month period.

9 b. Make or cause to be made such limited examinations at
10 such times and with such frequency as the superintendent deems
11 necessary and advisable to determine the condition of any state
12 credit union and whether any person has violated the provisions
13 of [this chapter](#).

14 c. Make or cause to be made an examination of any
15 corporation or credit union service organization in which a
16 state credit union owns shares or has made an investment.

17 d. Make or cause to be made an examination of any person
18 having business transactions or a relationship with any
19 state credit union when such examination is deemed necessary
20 and advisable in order to determine whether the capital of
21 the state credit union is impaired or whether the safety of
22 its deposits, its financial information or accounts, or its
23 computer systems or computer networks, is imperiled.

24 e. Accept, in lieu of the examination of a state credit
25 union, or any corporation or credit union service organization
26 in which a state credit union owns shares or has made an
27 investment, or of any person having business transactions or a
28 relationship with any state credit union, an examination report
29 prepared by a federal regulatory authority.

30 f. Accept, in lieu of the examination of a state credit
31 union, an audit report conducted by a certified public
32 accounting firm selected from a list of firms previously
33 approved by the superintendent. The cost of the audit shall be
34 paid by the state credit union.

35 g. Accept, in lieu of the examination of an out-of-state

LSB 1366DP (5) 87

gh/rn/rj

1/6

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 credit union which also conducts business in this state, an
2 examination report prepared by a state or federal regulatory
3 authority.

4 *h.* Retain, at the examinee's expense, accountants,
5 investigators, and other experts as reasonably necessary to
6 assist in the conduct of the examination. Any person so
7 retained shall serve in a purely advisory capacity at the
8 direction of the superintendent.

9 2. A state credit union and all of its officers and agents
10 shall give to the representatives of the superintendent free
11 and unimpeded access to all books, papers, securities, records,
12 and other sources of information under their control.

13 3. *a.* A report of examination shall be forwarded to the
14 chairperson of a state credit union within thirty days after
15 the completion of the examination. Within thirty days of the
16 receipt of this report, a meeting of the directors shall be
17 called by the state credit union to consider matters contained
18 in the report and the action taken shall be set forth in the
19 minutes of the board.

20 *b.* The report of examination of any affiliate or of any
21 person examined as provided in [this subsection](#) shall not be
22 transmitted by the superintendent to any such affiliate or
23 person or to the board of directors of any state credit union
24 unless authorized or requested by such affiliate or person.

25 *c.* All reports of examinations, including any copies of
26 such reports in the possession of any person other than the
27 superintendent or employee of the credit union division,
28 including any state credit union, agency, or institution
29 to which any report of such examination may be furnished
30 under this section, or section 533.108 or 533.325, shall be
31 confidential communications, shall not be subject to subpoena
32 from any person except as provided in section 533.108,
33 subsection 2, paragraph `b`, and shall not be published, shared,
34 or made public in any way by any person without the written
35 authorization of the credit union division and the execution of

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 a confidentiality agreement between all of the parties pursuant
2 to section 533.108, subsection 1, paragraph "d".

3 d. All reports of examinations, including any copies of
4 such reports in the possession of any person other than the
5 superintendent or employee of the credit union division, shall
6 remain the exclusive property of the credit union division.

7 ~~4. a. Whenever the superintendent deems it necessary~~
8 ~~and advisable, the superintendent may notify the board of~~
9 ~~directors of a state credit union that a meeting will be held~~
10 ~~at a place and time and manner as the superintendent directs.~~
11 ~~The superintendent's notice may disclose the purpose of the~~
12 ~~meeting.~~

13 ~~b. The superintendent may present to the board at the~~
14 ~~meeting any item the superintendent desires to bring to the~~
15 ~~attention of the board, including but not limited to any report~~
16 ~~of an examination required or allowed by this chapter, any~~
17 ~~conclusions or projections drawn by the superintendent, any~~
18 ~~recommendations made relative to a report of an examination,~~
19 ~~and any other matters concerning the operation and condition of~~
20 ~~the state credit union.~~

21 ~~c. The state credit union shall cause the matters presented~~
22 ~~at the meeting to be recorded in the minutes of the meeting.~~

23 ~~d. Each member of the board of directors shall furnish~~
24 ~~the superintendent a statement on forms supplied by the~~
25 ~~superintendent that the member is familiar with the matters~~
26 ~~presented by the superintendent.~~

27 ~~5. 4.~~ The superintendent may require any of the following
28 state credit unions to submit to an additional examination
29 or to an independent audit performed by a certified public
30 accounting firm as provided in subsection 1, paragraph "f", at
31 the expense of the state credit union:

32 a. A state credit union where the records are inadequate.

33 b. A state credit union in which the books have not been
34 balanced as of the end of the month not less than thirty days
35 previously.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 *c.* A state credit union whose affairs are in an unfavorable
2 condition.

3 ~~6-~~ 5. The superintendent may furnish a copy of the
4 examination report and materials relating to any or all
5 examinations made of any state credit union and any affiliate
6 of a state credit union to any or all of the following,
7 including any official or supervising examiner of any office
8 or regulatory authority:

9 *a.* The national credit union administration.

10 *b.* The federal deposit insurance corporation.

11 *c.* The federal reserve system.

12 *d.* The office of the comptroller of the currency.

13 *e.* The federal home loan bank.

14 *f.* Financial institution regulatory authorities of other
15 states.

16 *g.* The financial crimes enforcement network of the United
17 States department of the treasury.

18 ~~7. If the superintendent concludes that a state~~
19 ~~credit union's affairs are in an unfavorable condition,~~
20 ~~the superintendent may direct the state credit union to~~
21 ~~consider consolidation, dissolution, or any other form of~~
22 ~~reorganization.~~

23 6. The superintendent may impose a penalty, after notice
24 in writing and opportunity for a hearing, for a violation of
25 this section. If a state credit union fails to satisfactorily
26 resolve the matter within sixty days from receipt of such
27 notice, the superintendent may impose a penalty against the
28 state credit union in an amount not to exceed one hundred
29 dollars per day per violation for each day that the violation
30 remains unresolved.

31 Sec. 2. NEW SECTION. 533.113A **Meetings of the board called**
32 **by superintendent.**

33 1. Whenever the superintendent deems it necessary and
34 advisable, the superintendent may notify the board of directors
35 of a state credit union that a meeting will be held at a

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 place and time and manner as the superintendent directs.
2 The superintendent's notice may disclose the purpose of the
3 meeting.

4 2. The superintendent may present to the board at the
5 meeting any item the superintendent desires to bring to the
6 attention of the board, including but not limited to any report
7 of an examination required or allowed by this chapter, any
8 conclusions or projections drawn by the superintendent, any
9 recommendations made relative to a report of an examination,
10 and any other matters concerning the operation and condition of
11 the state credit union.

12 3. Each member of a board of directors required to hold a
13 meeting with the superintendent pursuant to this section shall
14 furnish a statement to the superintendent, on forms supplied by
15 the superintendent, that the member acknowledges the matters
16 presented by the superintendent.

17 4. A state credit union required to hold a meeting with the
18 superintendent pursuant to this section shall cause the matters
19 presented at such meeting to be recorded in the minutes of the
20 meeting.

21 5. If the superintendent concludes that a state
22 credit union's affairs are in an unfavorable condition,
23 the superintendent may direct the state credit union to
24 consider consolidation, dissolution, or any other form of
25 reorganization.

26 **EXPLANATION**

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to state credit union examinations and
30 board meetings called by the superintendent.

31 The bill modifies Code section 533.113, relating to the
32 examinations of state credit unions, by providing that the
33 reports of examinations, including any copies furnished to any
34 person outside of the credit union division, are confidential
35 communications, are not subject to subpoena, are not to be

LSB 1366DP (5) 87
gh/rn/rj

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 published or made public by any person without the credit
2 union division's written authorization and the execution of a
3 confidentiality agreement between all of the parties, and are
4 the exclusive possession of the credit union division. The
5 bill authorizes penalties for any violation of Code section
6 533.113. The superintendent may impose a penalty of not more
7 than \$100 per day per violation for each day that the violation
8 is unresolved, after notice and an opportunity for a hearing
9 and a 60-day period for resolving the violation.

10 The bill deletes Code section 533.113(4), allowing the
11 superintendent to call a meeting of the board of directors of
12 a state credit union, and Code section 533.113(7), allowing
13 the superintendent to direct a state credit union to consider
14 consolidation, dissolution, or any other form of reorganization
15 if the superintendent concludes that its affairs are in an
16 unfavorable condition. However, the language from these
17 sections is incorporated into new Code section 533.113A.
18 In addition, the bill requires each member of a board of
19 directors required to hold a meeting with the superintendent
20 under new Code section 533.113A to furnish a statement to
21 the superintendent that the member acknowledges the matters
22 presented at the meeting. The matters presented at such
23 meeting must also be recorded in the meeting minutes.

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

Senate Study Bill 1099 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS
BILL)

A BILL FOR

1 An Act including personal degradation as a form of dependent
2 adult abuse by caretakers in facilities and programs
3 regulated by the department of inspections and appeals.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1218DP (3) 87
hb/nh/rh

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 Section 1. Section 235E.1, subsection 5, paragraph a, Code
2 2017, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (3) Personal degradation of a dependent
4 adult. "*Personal degradation*" means a willful act or statement
5 by a caretaker intended to shame, degrade, humiliate, or
6 otherwise harm the personal dignity of a dependent adult, or
7 where the caretaker knew or reasonably should have known the
8 act or statement would cause shame, degradation, humiliation,
9 or harm to the personal dignity of a reasonable person.
10 "*Personal degradation*" includes the taking, transmission,
11 or display of an electronic image of a dependent adult by a
12 caretaker, where the caretaker's actions constitute a willful
13 act or statement intended to shame, degrade, humiliate, or
14 otherwise harm the personal dignity of the dependent adult, or
15 where the caretaker knew or reasonably should have known the
16 act would cause shame, degradation, humiliation, or harm to the
17 personal dignity of a reasonable person. "*Personal degradation*"
18 does not include the taking, transmission, or display of
19 an electronic image of a dependent adult for the purpose
20 of reporting dependent adult abuse to law enforcement, the
21 department, or other regulatory agency that oversees caretakers
22 or enforces abuse or neglect provisions, or for the purpose of
23 treatment or diagnosis or as part of an ongoing investigation.
24 "*Personal degradation*" also does not include the taking,
25 transmission, or display of an electronic image by a caretaker
26 in accordance with the facility's or program's confidentiality
27 policy and release of information or consent policies.

28

EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill includes personal degradation as a form of
32 dependent adult abuse by caretakers in facilities and
33 programs regulated by the department of inspections and
34 appeals. The bill provides that personal degradation is a
35 willful act or statement by a caretaker in a facility or

Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2017

S.F. _____ H.F. _____

1 program that is intended to shame, degrade, humiliate, or
2 otherwise harm the dependent adult's personal dignity; or a
3 willful act or statement by a caretaker where the caretaker
4 reasonably should have known the act or statement would
5 shame, degrade, humiliate, or otherwise harm the dependent
6 adult's personal dignity. Personal degradation includes the
7 taking, transmitting, or displaying of an electronic image
8 of a dependent adult by a caretaker, where the caretaker
9 intended to cause or should have known such act would cause
10 shame, degradation, or humiliation, or otherwise harm the
11 personal dignity of the dependent adult. The bill creates an
12 exception for electronic images that are taken, transmitted, or
13 displayed for the purposes of treatment, diagnosis, or ongoing
14 investigation. The bill provides personal degradation does
15 not occur when a caretaker takes, transmits, or displays an
16 electronic image in accordance with the facility's or program's
17 release of information or consent policies.